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MADRAS RECORD OFFICE
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OF THE

PROPOSED LAND REVENUE CODE

FOR THE

MADRAS PRESIDENCY.

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Chapter I.

Containing certain Provisions generally applicable to the Madras Revenue Code.

Whereas it is expedient to consolidate and amend the laws which relate to the administration of the Revenue, and the powers and duties of the various authorities connected therewith, in the Presidency of Madras, it is enacted as follows.

Interpretation Clause.

I. The following words and expressions in this Code shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, (that is to say)—

The expression "Local Government" shall mean the person or persons for the time being immediately administering the Executive Government of the said Presidency.

The expression "Madras Revenue Code" shall include the new Acts now substituted for those hereby repealed, and all other Acts to which the term may afterwards be extended.

The word 'money' shall include Government or other stock, shares in any Company, or any valuable security.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Words importing the masculine gender shall include the feminine.

The word 'person' shall include Company or Corporation.

The word 'month' shall mean calendar month.

Repealing Clause.

II. The several Acts and Regulations mentioned in the Schedule hereunto annexed, are hereby repealed, except so far as they repeal the whole or any part of any other Act or Regulation, and except as to any offence which shall have been committed, or to any money which shall have become due, or to any fine or penalty which shall have been incurred, or to any proceedings which shall have been commenced, before this Act shall come into operation.

Indemnity Clause.

III. No past act of any Officer of Government, done in good faith under the Laws hereby repealed, shall be deemed invalid by reason of want of conformity to their provisions, unless legal proceedings in respect thereof shall have been commenced within six months after the coming into operation of this Act.

Limitation of action, &c.

IV. All actions for damages, and all prosecutions against any person, which may be lawfully brought for anything done, or intended to be done, under the provisions of the Madras Revenue Code, shall be commenced within six months after the Act complained of shall have been committed, and not otherwise; and notice in writing of such action, and of the cause thereof shall be given to the defendant one month at least before the commencement of the action; and no Plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant; provided always, that where the object of a Civil Suit is to establish any right, or a title to any property, this section shall not apply.

Plea that act was done under order of a Superior.

V. Where any legal proceedings are taken against any person for anything done, or intended to be done, under the provisions of the Madras Revenue Code, it shall be lawful for the defendant to plead that the act complained of was done in good faith, under the order of his superior Officer; and upon establishing such plea, the defendant shall be entitled to a decree in his favour, although the superior Officer had no jurisdiction to make such order; provided always, that nothing in this section shall affect any remedy which the party injured may have against the authority who gave such order; provided also, that this Section shall not apply where a suit is brought against a Collector, for Acts done under the orders of the Local Government, or of the Board of Revenue.

Oaths to be taken.

VI. Members of the Board of Revenue, Commissioners of Revenue, and Collectors shall, previously to entering on the functins of their office, take the Oath prescribed by Act of Parliament, in the forms appended to this Act.

Restrictions against trading, &c.

VII. Covenanted Servants of the Crown in the Revenue Department, and Uncovenanted Deputy and Assistant Collectors, shall not be engaged in trade or commerce, or in transactions for lending or borrowing money, with natives of India.

Power to make rules.

VIII. It shall be lawful for the Local Government from time to time to frame such rules of Procedure as may be deemed fit, for the purpose of carrying out the provisions of the Madras Revenue Code, or for the purpose of suspending or limiting the exercise of the powers thereby conferred upon the Revenue

officers. And such rules shall, so long as they are in force, be deemed to be a part of the said Code ; provided always, that no such rules shall have the effect of investing any person with any larger powers than he may be authorized to exercise by the said Code.

Powers of Appellate Court.

IX. Where a power of appeal may be given against any decision passed under the provisions of the Madras Revenue Code, it shall be lawful for the appellate authority to annul, confirm, or amend the decision appealed against, or to remand the case to the inferior authority for reconsideration, or to pass such decision *de novo* as ought to have been given below, and to receive or call for such further evidence as may be deemed necessary. And wherever a power of review may be given, it shall be lawful for the authority vested therewith, to call for all proceedings which may have taken place below, though no appeal may have been brought, and thereupon to exercise all the powers above granted.

Chapter II.

Regulating the powers and duties of the Revenue Authorities in the Madras Presidency.

Board of Revenue.

Appeal.

X. All acts, orders and decisions of the Board of Revenue shall be open to the consideration of the Local Government on appeal, or by way of review, unless where the contrary may be expressly provided.

Constitution.

XI. The Board of Revenue shall consist of such number of Members as may be fixed from time to time by the Local Government. In the event of any of the Members being from any cause unable to attend, two Members shall be competent to form a Board for the transaction of business.

Duties of Superintendence.

XII. It shall be the duty of the Board of Revenue to exercise a general superintendence over the Revenues, from whatever source they may arise, unless where the same have been expressly entrusted to a separate agency, and to recommend to the Local Government such measures as they may deem advisible in the department entrusted to their charge.

Power of controlling Revenue Officers, &c.

XIII. The Board of Revenue shall have authority to superintend and control all persons employed in the executive administration of the Public Revenue, as far as the said superintendence and control may relate to the executive administration of the Revenues, under any laws which may now, or at any future time be in force.

Powers of fine and dismissal.

XIV. It shall be competent for the Board of Revenue to fine, suspend, or dismiss any of the uncovenanted Revenue Officers who may be convicted of misconduct, neglect, or breach of duty, or found to be otherwise unfit for their position ; provided always, that no uncovenanted servant, whose removal requires the order of the Local Government, shall be dismissed, or fined, till such order has been obtained.

Board not to grant pensions, &c.

XV. The Board of Revenue shall not grant any pensions, shrotriums, muctahs, fixed rents, enam or free-gift lands, or confirm the title of any persons claiming to succeed to such grants, without the authority, general or special, of the Local Government.

Powers of Appeal and Review.

XVI. The Board of Revenue shall be a Court of Appeal and Review, in respect of all decisions passed by any Revenue Officer, unless the contrary be expressly enacted.

Board to be a Court of Wards.

XVII. The Board of Revenue shall also be a Court of Wards, and shall exercise all such powers as now are, or by any future Act may be entrusted to it in such capacity.

Official orders how to be signed.

XVIII. All official orders and communications of the Board of Revenue shall be authenticated by the signature of its Secretary, or Sub-Secretary, or of the person for the time being authorised to act as such.

Mode of Voting.

XIX. All questions upon which differences occur shall be determined by the majority, the Senior Member having a casting vote, when votes are equally divided.

Recording dissent.

XX. Any Member dissenting from the opinion of the majority, may record his dissent, and may claim to have the fact of such dissent brought to the notice of the Local Government.

Power to frame rules.

XXI. The Board of Revenue may from time to time, subject to the approbation of the Local Government, frame such rules as may seem fit, for the rugulation of its own procedure, and for the guidance of the authorities placed under its control.

Board not to be sued.

XXII. The Board of Revenue shall not be sued in any Court, but where any acts ordered by them, shall become the subject of a civil action, the Collector of the District for the time being shall be made defendant, in behalf of Government and thereupon the suit shall proceed as if such acts had been done by him on his own authority.

Member of the Board of Revenue on Deputation, and Commissioners of Revenue.

Deputation from the Board.

XXIII. The Board of Revenue may, with the sanction of the Local Government, depute a Member of their own body, or any other person,

to perform any special duty within the scope of their authority, which may be considered expedient. The person so deputed shall exercise the whole or such part of the powers of the Board as may be assigned to him, but shall possess no authority independent of it, and shall be bound by the instructions which the Board may from time to time issue for his guidance; provided always, that where the person so deputed shall be a Member of the Board, his opinion, communicated to it, shall count as a vote in ascertaining the majority on any disputed question, connected with the business on which he is deputed.

Government Commissioner.

XXIV. The Local Government may, whenever it shall be deemed necessary, appoint a Member of the Board of Revenue or any other person, to be a Commissioner of Revenue to perform alone in any of the Districts of the Madras Presidency, all or any of the duties which by law belong to the Board of Revenue collectively. During the continuance of such appointment, the Board shall cease to exercise such powers as are assigned to the Commissioner, within the same limits, and such Commissioner shall be independent of the Board, and shall receive his instructions from, and correspond directly with the Local Government; provided always, that every such Commission shall be published in the Fort St. George Gazette.

Endowments.

Board of Revenue to superintend endowments.

XXV. The general superintendence of all endowments, granted by Government or individuals for the support of public edifices, or objects of public charity or utility, and not being for purposes of religious worship, is hereby vested in the Board of Revenue.

To maintain the due appropriation of the Funds.

XXVI. It shall be the duty of the Board of Revenue to take such measures as may be necessary, to ensure that all endowments made for the maintenance of such establishments as are abovementioned, are duly appropriated to the purpose for which they were originally destined; and, with the sanction of the Local Government, to provide for the due maintenance and repair of the buildings, tanks, or other matters connected therewith.

I wd restrict Govt. interference to the appointing of fit Trustees to manage such endowments & the providing for filling up vacancies as they occur. I wd abolish Collr. as ex officio Trustee only in the case of [illegible] endowment [illegible] by Govt. & have [illegible] under [illegible] in the Collr. office [illegible] they [illegible] published and wd leave [illegible] the Trustees [illegible] [illegible]

Local Agents to be appointed.

XXVII. One or more Local Agents, of whom the Collector shall *ex-officio* be one, shall be appointed in every District with the sanction of the Local Government, and it shall be their duty to procure all such information as may be required by the Board of Revenue, and to do such other acts under its orders and guidance,

as may be necessary to carry out the purposes abovementioned.

Deed of endowment to be registered, &c.

XXVIII. No endowment made after the passing of this Act for any public or charitable purpose, shall be valid against the grantor thereof or his heir, until six months shall have elapsed after some document evidencing the same shall have been executed, and registered as hereinafter mentioned.

Form of deed.

XXIX. Every grant of lands, or money, or of the rent or profits of land, for any of the purposes abovementioned, shall be in writing, signed by the grantor, and attested by two or more witnesses, and shall be presented to the Collector, or Assistant, or Deputy Collector, who shall satisfy himself of the genuineness of the signatures annexed thereto, and forward the document to the Collector's Office, where it shall be attested on every page by the Collector's seal and signature. The original deed shall be retained in the Collector's Cutcherry, and registered in a book kept for that purpose, and an attested copy shall be delivered to the party by whom the original was presented.

Registry.

XXX. The Registry shall contain a statement of the nature and value of the property granted, of the purpose of the endowment, and of the name of the parties making it, and such registers shall be open to public inspection at all reasonable hours, and all persons shall be at liberty to procure copies of the same under such rules and on payment of the fees fixed for obtaining copies of official documents.

Publication.

XXXI. When any document shall have been registered as aforesaid, a notice of such Registry shall be forwarded to the party purporting to have executed the grant, unless he shall have presented the document in person, and duplicates of such notice shall be affixed to the door of the Collector's Cutcherry, the Zillah Court, and the Moonsiff's Court nearest to the residence of the grantor; provided always, that no document executed, attested and registered as aforesaid, shall be invalid for want of such notices, as are herein directed.

Founder to be Visitor.

XXXII. The founder of every endowment which may hereafter be made and his heirs, shall, unless the contrary is specifically provided by the instrument creating the trust, have the power of inspecting the charity, and examining into the appropriation of the funds, and of removing the managers or trustees in case of any proved incapacity, misconduct, or neglect of duty, and of appointing fresh trustees or managers in the room of those who shall have been so removed, or who

from any cause shall have ceased to act; provided always, that nothing herein contained shall authorize the founder or his heirs to divert the trust funds from the purposes for which they were originally granted.

Who may sue, &c.

XXXIII. It shall be lawful for the founder of any such endowment, or his heirs, and also for any person interested in the benefits thereof, to bring a civil suit, or to institute criminal proceedings in the ordinary tribunals under Act XIII of 1850, or otherwise as the case may require, against all trustees, managers, or others, by whose conduct such endowment shall have been injuriously affected, or who shall be incompetent to conduct the business thereof; and it shall be lawful for the tribunal trying the case to deprive the party accused of any office which he may hold in connection with the charity.

Mode of proceeding where charge is laid before a Local Agent.

XXXIV. Where any charge of incompetency, or of any misconduct, breach of trust, or other wrongful act, done to the injury of such endowment, as are mentioned in Section 25 may be preferred to one of the Local Agents aforesaid, it shall be lawful for him to refer the complainant to a Civil suit, or, with the sanction of the Board of Revenue, to institute a prosecution against the offender, according to the ordinary course of criminal law; provided always, that where such charge shall be laid before a Magistrate or other person having criminal powers, it shall be lawful for him to dispose of the case himself, to the extent of his ordinary jurisdiction.

Suits, &c., ordered by Board of Revenue.

XXXV. Where any such incompetency, or wrongful act as is abovementioned may reach the knowledge of the Local Agent, it shall be his duty to investigate the same, and report thereon to the Board of Revenue, who may thereupon direct such legal proceedings, civil or criminal, to be taken as shall seem fit, and may direct such suit or prosecution to be instituted in the name of the Local Agent, or of any other fit person who shall be willing to undertake the same, and any suit or prosecution commenced in the name of any Local Agent, who may be removed from office before final judgment, shall be continued in the name of his successor for the time being.

Vacancies how to be filled.

XXXVI. Whenever the office of trustee or manager of any such endowment shall, from any cause, become vacant, and shall not be filled up by hereditary succession, or by the act of some person competent to appoint to the same; or whenever any contest shall arise between parties claiming to hold the office, it shall be lawful for the Local Agent to place in tempo-

rary possession such person as he shall consider best entitled to fill the post, and he shall thereupon report all the facts to the Board of Revenue, who may confirm his act, or appoint such other person as may be deemed proper; and such appointment shall become absolute unless a suit is commenced in some Civil Court to try the right, within three months from the date of the appointment so made, or confirmed, by the Board of Revenue; provided always, that every such suit shall be brought against the party placed in possession, and not against the Collector or Local Agent.

Change in the purpose of the charity.

XXXVII. Whenever the funds appropriated to any such charity shall become insufficient for the purpose for which they were originally designed, or whenever a surplus may accrue after satisfying such purpose, or whenever the original object of the institution may become impracticable or useless, or whenever from any other reason it may be desirable to divert the property so assigned, or any part thereof, to some other use, charitable, such change may be effected in the manner following.

Procedure to be adopted.

XXXVIII. The Board of Revenue may, upon petition presented by the founder of such charity or his heirs, or by any of the parties interested therein, or upon the representation of the Local Agent, call upon such Local Agent, or any other person whom they may depute for the occasion, to report upon the advisability of a change, and to propose a new scheme for the future.

Notice to be given of new scheme.

XXXIX. The Board of Revenue shall, with the sanction of the Local Government, adopt such new scheme for the management of the said endowment as they may think fit, and such new scheme shall be published in the Fort Saint George and Local District Gazette, and posted on the doors of the Collector's Cutcherry, and Zillah Court, and of the Moonsiff's Court, nearest to the place of the charity, and otherwise disseminated as widely as possible, among all persons having any interest therein; provided always, that no such new scheme shall be carried out, during the time allowed for appeal, or pending appeal, where any such has been preferred.

Appeals to lie within six months.

XL. All appeals against such alteration shall be preferred to the Board of Revenue, within six months after such notice as aforesaid has been affixed to the doors of the Collector's Cutcherry, and such new arrangement shall become final if no appeal is commenced within the said time, and ultimately prosecuted with success.

Escheats.

Procedure in case of failure of heirs.

XLI. Where the last holder of any property shall have died, without leaving any person having an apparent title to succeed to the same, it shall be the duty of the Collector to report all the facts to the Board of Revenue, and in the meantime to assume charge of the property in trust for the person who shall prove eventually entitled, or for the Crown in case of an escheat; provided always, that where any person shall be in actual possession, under a *bonâ fide* claim of title, it shall not be lawful for the Collector to oust him without a Civil suit.

Appeal against ouster by Collector.

XLII. Where the Collector shall have entered into possession in violation of the preceding section, an appeal may be preferred to the Civil Judge within one month, and thereupon the appellant shall be re-instated in possession, without prejudice to any suit that may afterwards be brought by the Collector, or any other person, to decide the title to the property.

The Board may direct Collector to give up possession.

XLIII. The Board of Revenue may, with the sanction of the Local Government, direct the Collector to retire from possession, and to give up the property to any person who may, in their opinion, have shown a better title thereto, and all proceedings taken by any other claimant, shall be brought against the party so placed in possession, and not against the Collector.

Notice of intention to claim as Escheat.

XLIV. Whenever it shall seem fit to the Board of Revenue, with the sanction of the Local Government, to claim any property as an escheat to the Crown, notices shall be issued, in which the situation and nature of the property, and the name of the last holder and the person now in possession shall be stated, and all persons intending to contest the title of the Crown shall be called on to lay their claims before the Collector within six months from the date of the notice, such notice shall be published in the manner described in Section XXXIX of this Chapter; and all claims shall be referred by the Collector to the Board of Revenue for consideration, and if rejected, the claimant, or his authorised agent, shall, where it is practicable, be informed of the fact of such rejection, and of the Collector's intention to bring a suit on behalf of the Crown.

Collector to hold for Crown where no claim within six months.

XLV. Where no such claims shall have been made within the period aforesaid, the Collector shall, if previously in possession, hold the property in trust for the Crown, subject to being ejected by civil suit within the ordinary period of limitation.

Suit to be brought within a year.

XLVI. Where any such claims shall have been made, they shall be adjudicated on by a civil suit, in which the Collector shall be plaintiff, and all the said claimants shall be defendants, and such suit shall be brought within one year from the date of the said notice, and in default thereof, the right of the crown against the said claimants shall be barred; provided always, that it shall be lawful for the Judge trying the case, to admit as defendants any other persons who have an interest in the property, although they have not sent in any such claims as are abovementioned.

Form of suit.

XLVII. Such suit shall be in the form of a prayer for a declaration of the right of the Crown to take the property as an escheat, and where the suit is decided against the Crown, the Judge trying the case shall order possession to be given to such of the defendants as may have established the best *prima facie* title thereto, leaving the other defendants to proceed against him by ejectment; provided always, that such order shall not be executed during the time allowed for appeal, or pending appeal, where such has been commenced.

Not to bar rights of third parties.

XLVIII. The issue of such suit shall not affect the rights of any persons, not parties thereto, except in so far as it may be evidence of acquiescence or waiver of title.

Powers and Duties of Collectors in matters of Revenue.

Number of Collectors, &c., to be fixed by Government.

XLIX. The number of Collectors, and of Collectorates, with their limits, shall be fixed from time to time by the Local Government.

Collector to grant receipt for cash, &c., received from his predecessor.

L. On assuming charge of the office of Collector, the officer shall pass a receipt in duplicate for the balance of money, stamps, and other property in the Treasury, one to be sent to the Board of Revenue, and the other to be kept by his predecessor.

To collect Revenue.

LI. The collection of all such revenues as are not expressly entrusted to some separate agency, is vested in the Collectors, who shall be guided by such laws as may from time to time be in force, and in the absence of any express laws, by the orders of the Local Government, or of the Board of Revenue or of the person who may, for the time being, exercise its functions within the limits of their District.

To enforce payment, &c.

LII. It shall be the duty of the Collectors to enforce the punctual payment of the revenue, to cause receipts to be duly given for all payments, to suggest to the Board of Revenue all such measures as may in their opinion conduce to the prosperity of their District, and generally to administer their charge with a view to the happiness of the people, and the advantage of the State.

Not to make grants without authority.

LIII. It shall not be lawful for the Collector to exempt land from assessment, to grant pensions, or to make disbursements without the previous sanction of Government, general or special.

Registry of land.

LIV. Collectors shall keep registers of all land, wholly or partially exempt from the payment of public revenue, and also of all sub-divisions of Estates, and all transfers of landed property, or changes of ownership therein. Such registers shall be in such form as may be sanctioned by the Board of Revenue, and shall be open to inspection at all reasonable hours, and all persons shall be entitled to copies of any part thereof, on payment of the fee fixed for obtaining copies of Official documents.

Apportionment of assessment.

LV. Where it may be necessary that an Estate held under a Sunnud Milkeut-i-Istimrar, or other similar deed of permanent character should be sub-divided, in order that a portion thereof may be sold for the discharge of arrears of revenue, or in pursuance of a Decree of Court, or for the purpose of being transferred in a manner allowed by law from one individual to another, it shall be the duty of the Collector to apportion the assessment thereof on each sub-division.

Principle of apportionment.

LVI. The amount of such assessment shall be regulated at a rate proportionate to the value which such sub-divisions of Estates bear to the gross assets of the whole Estates, and it shall be the duty of the Collector to give information of the new assessment to the proprietors of each portion of the land so sub-divided.

Procedure in case of appeal.

LVII. Every appeal against such new assessment shall be lodged with the Collector within two months after the same shall have been communicated to the party interested therein, or his agent authorised to act in that behalf, or within two months after notice of the assessment shall have been affixed upon the door of the last known place of residence of such party, in cases where neither he, nor any authorised agent can be found; and the Collector shall, with all reasonable despatch, forward the appeal to the Board of Revenue, with his remarks thereon, and the decision of the Board shall be final.

Persons deputed to attach Estates to have written powers.

LVIII. So much of Clause 9 of the Sunnud Milkeut-i-Istimrar as provides, that no separate estate shall be farmed, unless the assessment thereon shall amount to the annual sum of 500 Star Pagodas and upwards, is hereby rescinded; provided always, that whereupon any subdivision, the assessment upon the portion separated

shall be less than five hundred Pagodas per annum, such sub-division shall be invalid without the written confirmation of the Board of Revenue, which confirmation the Board of Revenue may grant or withhold.

Power to fine or dismiss.

LIX. The Collector shall have authority to control and superintend all Revenue servants, of a rank inferior to his own, employed within his District, and to punish them with fine or dismissal in such cases, and within such limits as may be sanctioned by law, or by the orders of the Local Government, or of the Board of Revenue.

Powers of Collector over persons not in Government employ.

LX. The Collector shall have authority to summon all Zemindars, Ryots, or Proprietors of land, paying revenue direct to Government, and all Jaghiredars, Poligars, Shrotriemdars, Enamdars, and holders of land wholly or partially exempt from payment of public revenue, as well as all Renters and Farmers of all public revenues, Ferries, Tolls or other Privileges, and all Sureties, or other persons responsible for any part of the revenue to Government, to appear before him, either by person or vakeel, when their presence may be deemed necessary, and all persons, who, without sufficient cause, neglect or refuse to comply with such requisition, may be fined by the Collector to an extent not exceeding rupees   and an appeal against all such fines may be preferred to the Sessions Judge within one month.

Estates of disqualified landholders.

LXI. Collectors are to manage the Estates of disqualified landholders as prescribed by law, or under the Orders of the Court of Wards.

No acts which may affect intercourse with Foreign States to be done without authority.

LXII. Collectors may not, without the express sanction of the Local Government, do, or authorise, any act which may affect the intercourse of the British nation with Foreign States.

Employment of public and private Servants.

LXIII. Collectors may not employ public servants in private affairs, nor private servants in public affairs; provided always, that the employment of authorised volunteers shall not be deemed unlawful, nor shall they permit their native servants to be concerned directly or indirectly in any rent or farm of the public revenue, or to be security for any farmer or renter of lands on which the rent may not have been permanently fixed.

Collector's seal.

LXIV. Collectors shall use in the transaction of official business, a circular seal bearing in English and the language of the District this inscription, the seal of the Collector of

Summary Judicial Power of Collector in certain Civil Cases.

Powers of Collector in case of forcible dispossession.

LXV. Whenever any persons who may lay claim to lands, crops, tanks, or water-courses, or to any buildings used for the purpose of farming or agriculture, in the possession of others, shall forcibly take possession of the subject matter in dispute, the party dispossessed shall be at liberty, within two months after the fact, to bring the case before the Collector, who, upon proof of such forcible ejection, and of the actual previous possession by such ejected party, shall cause the matter in dispute to be restored to the complainant, or the value of the crops to be paid to him, if they shall be damaged, destroyed, or not forthcoming; and shall further award against the offender such damages as may be equitable, and costs; provided always, that no execution shall issue in respect of so much of the decree as awards costs or damages, for one month after the date thereof, or during such further period as any appeal may be pending.

Appeal.

LXVI. It shall be competent to either party to appeal to the Civil Judge against such decision, on the ground that the Collector has wrongly decided the question of previous possession, or that he has given excessive, or inadequate damages.

Not to bar Civil suit.

LXVII. Nothing contained in the two preceding sections shall prevent the party, against whom such decision may have been passed, from instituting a suit in the proper tribunal, against the person in possession, to try the right to the property; and in such suit he may in addition to the land in dispute, recover back any damages which may have been formerly awarded against him; and such suit may be brought within the ordinary period of limitation; provided always, that unless such suit is commenced within one month from the date of the Collectors decision, or of the last appeal founded thereon the right to claim in respect of damages shall be lost.

Right to enter on waste lands.

LXVIII. Where any dispute may arise as to any claim to enter into possession of waste land, or of land which shall not have been in the occupation of any person for one year next preceding; or as to the proper rate of assessment to be imposed upon lands not previously assessed, it shall be lawful for either party to bring the case before the Collector, who shall proceed to adjudicate upon the right to occupy such land, or upon the rate of such assessment

as between the parties before him; provided always, that nothing in this section shall affect the right of Government to assess the land, as shall seem fit, for purposes of taxation, or to dispose of any waste or unassessed land in any manner which may seem fit.

Disputed boundaries, claims to water.

LXIX. It shall be lawful for the Collector to adjudicate upon any question of uncertain or disputed boundaries or landmarks, within the limits of his district, which may be preferred before him by any party interested therein; and also upon any claims as to the right to use any water, for purposes of irrigation.

Case of distraint or arrest for arrears of rent or revenue.

LXX. Wherever any power of distraint, which may exist by law in case of arrears of rent or revenue, may be enforced against any person, who shall deny that such rent or revenue is in arrear, or that the entire sum claimed is due, or who shall assert that tender of payment was previously made and refused, or that property or goods, privileged from distraint have been seized, or that the distraint is null and void on account of any defect in procedure, it shall be lawful for the person aggrieved to prefer his complaint to the Collector, who shall thereupon investigate the matter, and decide whether any, and how much, rent or revenue is due, and shall confirm or annul the distress in whole or in part, and shall order the restoration of any property, goods or money that may have been wrongfully seized, and shall give such damages as the party injured may have incurred, or as the law may award; provided always, that the Collector shall have no jurisdiction in any case in which the complainant refuses to admit the title of the party distraining, or in any case in which the distraint may be in respect of Government assessment.

Disputes as to amount of rent, refusal of puttahs, or receipts.

LXXI. Where any person shall have levied, or attempted to levy, upon those holding land under him, any rent or assessment, differing in amount or species from that which he is entitled to exact; or where any person who is bound by law to grant Puttahs to those holding land under him, shall for six months after demand refuse to grant such Puttahs as they are entitled to receive; or shall grant Puttahs to any persons other than those to whom they ought, by law, to be given; or where any person shall refuse to grant to those holding land under him, receipts for discharges of rent or revenue, when duly made, it shall be lawful for the party aggrieved to prefer a complaint to the

Collector, who shall adjudicate upon the same and grant such relief, and award such damages as the law may permit.

Fraudulent transfer of property, or resistance to attachment.

LXXII. Wherever any person whose land or property is liable to be attached or distrained for arrears of rent or revenue, shall make a fraudulent conveyance of the same, with the view to prevent such attachment or distress; or wherever such attachment or distress shall be forcibly resisted; or whenever property so attached or distrained shall be unlawfully removed from the custody of the person entitled to retain the same, it shall be competent to the party aggrieved to lodge a complaint before the Collector, who shall thereupon investigate the charge, and grant such redress, and award such damages, to the injured party as shall seem fit

Personal arrest for arrears of rent or revenue.

LXXIII. It shall be lawful for the Collector to investigate all cases, duly brought before him, in which any party is arrested for arrears of rent or revenue, and to ascertain whether any and what amount is due, and how far such arrears could have been satisfied by distress, and sale of all his property moveable or immoveable, and thereupon to make such order as to releasing the defendant, or committing him into custody, and otherwise, as the law directs; provided always, that the Collector shall have no jurisdiction where the matter has already been decided by a competent authority.

Procedure in cases before Collector.

LXXIV. All proceedings taken under Sections LXV to LXXII inclusive, shall commence by a written summons addressed to the defendant, which shall contain the name of the complainant, and state concisely the nature and amount of the claim, the position of the land, water, or premises in dispute, and the damages sought, if any, and no further pleadings shall be necessary. The costs of issuing and serving the summons shall be endorsed thereon.

Satisfaction of claim.

LXXV. It shall be lawful for the defendant at any time before the day fixed for the hearing, to acknowledge the justice of the claim, and to pay into Court, or into the hands of the defendant or his agent, the amount sought to be recovered, and the costs of the summons, and thereupon all further proceedings shall be stayed, and an order shall be issued in favour of the plaintiff. It shall also be lawful for the defendant to acknowledge such part of the plaintiff's claim as he shall think fit, or to pay, as aforesaid, so much of the money claimed as

he admits to be due, and if the plaintiff fails to recover something beyond the amount so paid or acknowledged, he shall pay all subsequent costs.

Powers of amendment.

LXXVI. On the hearing of the cause it shall be competent for the Collector to amend all variances between the claim, as stated in the summons, and that proved by the evidence, upon such terms as to postponement of trial, or payment of costs as he may think necessary, to prevent the opposite party from being prejudiced in his defence, and the decision shall be given wholly on the merits of the case.

Record.

LXXVII. The record shall consist of a copy of the original or amended summons, a brief statement of the defence set up, a list of the documents filed, which shall be appended thereto, the evidence of the witnesses, which shall be taken down in the form of a narrative, and the decision of the Collector in his own handwriting.

Appeal.

LXXVIII. All decisions passed under the provisions of the said sections, or upon an appeal under Section LXXXI shall be final as between the parties thereto, upon such points as the Collector had jurisdiction to decide, unless an appeal shall be preferred to the Civil Judge within one month from the date thereof, and such appeal shall be decided solely upon the merits, and not upon matter of form.

Powers of ordinary tribunal saved.

LXXIX. Nothing contained in the preceding sections shall be construed, so as to debar any person from any remedy which he would otherwise have had before the ordinary tribunals, in respect of any right, or grievance, over which a jurisdiction is hereby given to the Collector; provided always, that no party who has resorted to the Collector under the powers hereinbefore granted, shall be allowed afterwards to proceed before the ordinary tribunals, in respect of any matter which was legally under debate before the Collector.

Judicial powers of Tahsildars.

LXXX. All disputes such as are mentioned in Sections LXV to LXXII inclusive, where the total value of the subject matter in issue, and of the damages claimed, shall not exceed Rupees 500, may be preferred before the Tahsildar, who shall thereupon proceed in the same manner, and exercise the same powers as are given to Collectors. And it shall be competent to the Collector to refer all such disputes, whatever be their value, to the Tahsildar, to be adjudicated on as abovementioned.

Appeal from Tahsildar.

LXXXI. All such decisions shall be final, unless an appeal shall be preferred to the Collector within two months from the date thereof; and where the subject of dispute exceeds the value of Rupees 500, the Tahsildar's decision shall not be put into execution till the time for appeal has expired, or pending such appeal, where any has been preferred; and it shall be competent to either party to such appeal to require the Collector to examine the witnesses anew; provided always, that it shall not be necessary to record their evidence again, unless any discrepancies may occur, or any new and material facts be elicited, beyond those which are already taken down.

Returns of cases decided.

LXXXII. Monthly returns of all such cases as are decided by Tahsildars, and by Collectors, whether originally or on appeal, under the provisions hereinbefore contained, shall be made to the Court of Sudder Udalut, and such returns may be in the same form as those now made by the Civil Courts under Regulation IX of 1828.

Reference to Punchayets.

LXXXIII. Where such complaints as are specified in Sections LXV to LXXII inclusive, shall be preferred before a Collector, it shall be competent to him, where both parties consent thereto, to refer the matter to a Punchayet as hereinafter mentioned.

Mode of choosing Punchayet.

LXXXIV. Such Punchayet shall consist of an uneven number, ranging from three to nine, and shall be chosen by the Collector, or by the District, or Village Moonsiff, as he may direct; where the parties to the proceeding are of different races, castes or professions, the Officer naming the Punchayet shall, if they desire it, select one person from race, or caste or profession different from that of either of the disputants, and choose the remaining members equally from the races, castes or professions to which the parties belong; provided always, that if either party shall object to any of the persons nominated to compose such Punchayet, and the selecting Officer shall consider the objection to be reasonable, the person objected to shall be withdrawn, and another substituted in his place.

Procedure

LXXXV. All suits, referred under Section LXXIV shall be conducted as nearly as possible according to the same forms of procedure, and the Punchayets shall have the same powers in reference to witnesses, and their decision shall have the same legal effect, as if the matter had been adjudicated on by the Collector

Appeal. LXXXVI. All appeals from the decisions of such Punchayets shall be preferred to the Civil Judge within one month from the date thereof, and such decisions shall only be set aside on the ground of gross and corrupt partiality; and where any such appeal is dismissed, it shall be lawful for the Civil Judge, if he is of opinion that the appeal was frivolous and vexatious, to inflict upon the appellant such fine, not exceeding Rupees   as he shall think fit, and to award the same or part of the same as damages to such members of the Punchayet as were accused of misconduct; provided always, that no such fine shall be levied during the time allowed for appeal, or pending appeal, where any shall have been commenced, and that the decision of the Civil Judge upon such appeal shall be final.

Judicial Powers of Collectors in certain Criminal Cases.

Criminal jurisdiction of Collector. LXXXVII. The Collector shall have authority to punish the several offences hereinafter specified, when committed by persons of the following description; that is to say:—

Persons to whom it extends. 1. All the Uncovenanted Servants on the Collector's public Establishment, whether Magisterial or Revenue, or in the Department of Public Works, or in the Assessment or Survey or Inam Departments, except such as cannot be removed without the sanction of the Local Government.

2. All Heads of Villages, Curnums, and their Gomastahs, or persons officiating for them, and all other Village Officers and servants, within their respective Districts.

3. All private servants of Collectors, Sub-Collectors, Assistant and Deputy Collectors, and of persons serving in the Department of Public Works, Assessment, Survey or Inam Departments.

4. All persons pretending to be or assuming the character of any of the said public Officers aforesaid, or pretending to act on their behalf under their authority.

5. All Curnums and other Village Officers employed in an Estate under the charge of the Court of Wards, as well as all subordinate Officers or servants in the Establishments of the Guardian or Manager of a disqualified proprietor, as defined in Chapter III of this Code.

Criminal Acts. LXXXVIII. The offences cognizable by Collectors are declared to be as follows, that is to say:—

1. Exacting, or corruptly receiving, directly or indirectly, any money or valuable consideration, for doing or procuring to be done, or for

omitting or preventing, any public or official act, or for the purpose, or under the pretence, of obtaining some undue benefit for any person.

2. Knowingly levying any other, or greater fees, taxes or collections, than are sanctioned by law.

3. Embezzling, or fraudulently misappropriating, the public money or property.

4. Making false or fraudulent entries in the public accounts, or other records, either in regard to the receipt or expenditure of public money in any of the Departments aforesaid, or in that under the Collector's superintendence, or concerning the cultivation, irrigation, extent, value, classification, or assessment of land.

5. Knowingly falsifying, destroying, or concealing public accounts, or vouchers or documents relating to the receipt or expenditure of public money or property.

Penalty.

LXXXIX. Where any of the persons described in Section LXXXVII shall be convicted of any of the offences specified in the preceding section, it shall be lawful for the Collector to impose a fine not exceeding 500 Rupees; and to sentence the offender to imprisonment for a period not exceeding one year, in default of payment.

Committal to Criminal Court.

XC. When a fine of Rupees. 500 shall, in the opinion of the Collector, be inadequate to the offence, it shall be lawful for him to commit the case to the Subordinate Criminal Courts, to to be dealt with according to law.

Appeal.

XCI. Where the money ordered to be paid shall not exceed Rupees 100, or the period of imprisonment in default thereof shall not be greater than two months, the decision of the Collector shall be final. In all other cases of convictions under the preceding sections, an appeal may be preferred to the Sessions Judge within one month from the date of the sentence.

Tahsildars.

XCII. It shall be lawful for Collectors to refer petty cases of the nature above specified, to the Tahsildar, for investigation and decision; but such Tahsildar shall not be authorized to order payment of a greater sum of money than Rupees 50, or to impose a longer period of imprisonment than one month, in default thereof.

Appeal.

XCIII. An appeal to the Collector shall lie against the decision of the Tahsildar, whether it be for an acquittal or conviction, within one month from the date thereof, and it shall be competent to either party to such appeal to require the Collector to examine the witnesses anew; provided always, that it shall not be

necessary to record their evidence again, unless any discrepancies may occur, or any new material facts be elicited, beyond those which are already taken down.

Procedure.

XCIV. In all trials for the offences hereinbefore specified, the charge shall be stated concisely in writing, and read over to the prisoner, who shall be asked if he wishes to say anything, and his answer shall be taken down in writing, and read over to him, and he shall affix his signature or mark thereto, and if he refuses to do so, the authority trying the case shall sign the same, and add a note of the fact of such refusal; and the record shall consist of such statement and answer, the evidence of the witnesses, taken down in narrative form, the further defence of the accused, if he shall make any, a list of the documents filed, which shall be appended thereto, and of the decision of the presiding authority in his own handwriting; and it shall be competent to such authority to amend any variance which may occur between the offence, as stated in the charge, and that proved by the evidence; provided such variance shall not, in his opinion, have misled the prisoner, or prejudiced him in his defence.

Disposal of fines.

XCV. All fines levied in any conviction under this Act shall be paid into the local Treasury, but it shall be lawful for the Officer trying the case to order such reasonable costs as may have been incurred in the prosecution, to be paid therefrom, and also to return all money unduly exacted or extorted, to the person from whom it was so obtained.

Summary recovery of money embezzled.

XCVI. Wherever any person of the classes specified in Section LXXXVII shall admit, or wherever his accounts shall show, the receipt by him of a larger sum of public money than he is able to produce, or account for, it shall be lawful for the Collector to make a demand in writing upon him for the specific sum so ascertained to be due, and to enforce the payment thereof, as provided in the following section, and such payment shall not be a bar to any proceedings which may be instituted against him before the ordinary Criminal tribunals, in respect of the same defalcation.

Mode of levying fines, &c.

XCVII. All fines imposed, and all sums of money ordered to be paid, in any judicial proceedings, Civil or Criminal, under the authority of this Act, shall be levied in the same manner as arrears of revenue.

Evidence.

XCVIII. All persons exercising judicial authority, whether Civil or Criminal, under the authority of this Act, shall have the same powers

as to compelling the production of documents, summoning and enforcing the attendance of witnesses, and punishing those who fail to appear, or to give evidence, as are possessed respectively by Civil and Sessions Judges.

Judicial functionary not to be sued.

XCIX. No person exercising any judicial authority under the provisions of this Act, shall be liable to be sued in respect of any decision which he may have passed, and where any suit may be brought against such person, it shall be the duty of the Judge trying the case to strike his name off the record, without requiring any answer to be put in.

Power to prosecute not affected.

C. Nothing contained in this Act shall be construed to prevent any person from being prosecuted for any offence made punishable on summary conviction by this Act, or to prevent any person from being liable under any other Law, Regulation, or Act, to any other or higher penalty or punishment than is provided for such offence by this Act. So, nevertheless, that no person be tried twice for the same offence.

Abuses committed by District Moonsiffs.

CI. Whenever a Collector shall receive information of any acts of extortion, undue exaction, or other gross misconduct, alleged to have been committed by a District Moonsiff, he shall make such inquiries as the nature of the case may suggest, for the purpose of ascertaining whether any grounds exist for a more full and formal investigation of the charge; and if he shall find such grounds to exist, he shall forward a statement of the case, together with a list of the witnesses to the Civil Judge, to be dealt with by him according to law.

Irrigation Works.

Collector may order tanks, &c., to be repaired.

CII. Wherever any tank, or other work for the purpose of irrigation, the property of any landed proprietor, may be so badly constructed, or may have fallen into such disrepair, as to be dangerous to the public roads, or to persons or property in the vicinity, it shall be lawful for the Collector to call upon such proprietor, to put the same into a safe state, and if such proprietor shall for one month after notice fail to comply with the order, it shall then be lawful for the Collector to proceed to execute the necessary repairs or alterations, by such means as are at his disposal; provided always, that where there is ground to apprehend any immediate danger, the Collector may at once carry out the necessary works, unless the proprietor is prepared to perform them forthwith.

Expenses of repair to be paid by the proprietor.

CIII. All expenses properly incurred in the performance of such works shall be charged to him, and a written demand shall be made upon him for the amount, and if he shall fail to pay the same, within such reasonable time as may be fixed by the Collector, it shall be recoverable in the same manner as arrears of revenue.

Civil suit or indictment.

CIV. All tanks or other works for the purpose of irrigation, kept in such a dangerous state, shall be deemed to be nuisances, and it shall be lawful for the Collector, or any person who has been injured, or who is likely to be injuriously affected by the same, to bring a suit for damages against the proprietor of the land; and the authority trying the cause may further order the proprietor to execute all proper works, for the purpose of abating the nuisance, within such reasonable time as shall seem fit.

Villages held by Joint Proprietors.

Collectors may call on them to choose a Manager.

CV. Where any village or part of a village shall be held as joint property by several proprietors, it shall be lawful for the Collector to call upon them to choose one or more Managers for the transaction of the village affairs with the Revenue Officers, and all acts which may be done by such Managers, within the scope of their authority, shall be binding upon the whole body of proprietors.

CVI. Where the proprietors shall neglect or refuse to select Managers within one month after they have been called upon so to do, it shall be lawful for the Collector to present a statement of the facts to the Civil Judge, and it shall be his duty to proceed with all convenient despatch to appoint such person, or persons, as he may think proper for that purpose.

In case of default, Civil Judge to choose.

CVII. It shall be lawful for the proprietors to remove their Manager, and appoint a new one, at their own discretion, where the office is not by usage hereditary; provided always, that where the person so appointed shall prove incompetent, it shall be lawful for the Collector to represent the matter to the Civil Judge, who shall examine into the case, and issue such orders as to the Manager's removal, or otherwise, as he shall think proper.

Obstructing Public Business.

CVIII. All persons whatsoever, whether British subjects or otherwise, who shall use menacing expressions or gestures, or otherwise obstruct the course of public business in the presence of any Collector, or Delegate from the Board of Revenue, or Government Commissioner, then engaged in the discharge of his

duties, shall be liable to be fined by the authority whose proceedings are obstructed, to any amount not exceeding Rupees 200, or in case such fine be not paid, to be imprisoned for any period not exceeding one month.

Appeal.

CIX. An appeal against all such sentences shall lie to the Sessions Judge, within one month from the date thereof.

Subordinate, Assistant and Deputy Collectors.

Subordinate Collectors, &c., to have ex-officio the same powers as Collectors.

CX. Every Subordinate, Assistant, or Deputy Collector in charge of a particular division of a district, shall *ex-officio* have authority to exercise within the division under his charge, all the powers equally possessed by Collectors.

Authority of Collectors to delegate their power.

CXI. It shall be lawful for Collectors to delegate at their discretion, in writing under their official signature, any of the powers existing in them, to any of their Subordinate Collectors, or Assistants, or Deputy Collector, not in charge of a particular division of a district; or to any such Officers in charge of a particular division, beyond the limit of such division.

Appeal and Review.

CXII. All proceedings of such inferior authorities shall be open to the consideration of the Collector on appeal, or by way of review; and it shall be lawful for him to direct, either generally or in any particular instance, that such proceedings shall be submitted to him before they are carried into execution; provided always, that in all cases of decisions passed under Sections LXVII. to LXXII. inclusive, LXXXI. LXXXVII. to XCI. inclusive, and CVIII., an appeal shall lie direct from the Order of such inferior authority to the tribunal which would have had appellate jurisdiction, had the order been passed by the Collector, and such decision, if not appealed against within the prescribed period, shall be final.

CHAPTER III.

For the purpose of constituting a Court of Wards, and of defining the powers vested therein, and the Rules under which they are to be exercised.

Preamble.

CXIII. Whereas it is expedient to make provision for the management of estates which pay revenue direct to Government, and whose proprietors are by law incompetent to conduct their own affairs, and also for the due care, maintenance, and education of persons so incapacitated, it is enacted as follows:—

Interpretation Clause.

CXIV. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, (that is to say),

Estate.

The word 'Estate' shall mean all landed property which pays revenue direct to Government.

Proprietor.

The word 'Proprietor' shall mean the person for the time being entitled to the possession of such 'Estate,' for his own use and benefit.

Disqualified Proprietor.

Reg. V. of 1804, *ss.* 2, 4, 5.

The expression 'Disqualified Proprietor' shall include all such proprietors, who shall be incompetent to manage their own affairs by reason of being females, minors, or mentally incapable.

Constitution and duties of the Court of Wards.

Ibid., s. 2.

CXV. The Court of Wards shall consist of the Members of the Board of Revenue for the time being, and it shall be their duty to administer all property which may come into the possession of, or be held by, disqualified proprietors, to provide for the proper care, maintenance, and education of such proprietors, as the circumstances of the case may require, to exercise superintendence and control over all persons to whom they may entrust the discharge of the said duties, and to act as a Court of appeal and review in respect of all decisions or orders passed by any Collector under the provisions hereinafter enacted; provided always, that the Court of Wards shall not assume the charge of any estate, until the written sanction of the local Government shall have been obtained, and that the provisions of this Act shall cease to apply in all cases in which such sanction shall be refused, or subsequently withdrawn.

Females and minors.

Ibid., s. 3, *cl.* 2.

Ibid., s. 4.

CXVI. It shall be competent to the Court of Wards to place females in the possession and management of their property, where they may be deemed of sufficient age and ability to conduct their own affairs, and the disqualification arising from minority, shall, in the case of proprietors within the meaning of this Act, terminate at the close of the eighteenth year.

Procedure where a disqualification arises.

Ibid., s. 3, *cl.* 1.

CXVII. Where any estate shall come into the possession of a disqualified proprietor, or where the person in possession of such estate shall become disqualified, it shall be the duty of the Collector to take such steps as may be necessary to secure the safe custody, and proper management of the estate and effects, real and personal, of such proprietor, until

the pleasure of the local Government can be known, and to transmit a report of all the facts of the case to the Court of Wards, and it shall thereupon be competent for the Court of Wards, either to refuse to interfere, where no sufficient grounds are shown for their intervention, or to forward the report with their own opinion to the Local Government for its decision and orders; provided always, that it shall be competent for the Court of Wards, with the sanction, or upon the orders of the Local Government, to assume charge of the property of a proprietor at any time during the continuance of a disqualification, notwithstanding they may have originally refrained from interfering.

Reg. X. of 1831, *s. 2, cl.* 2.

Appeal in case of supposed disqualification.

Reg. V. of 1804, *s.* 7.

CXVIII. Where any proprietor shall be deprived, or shall be about to be deprived, of the management of his estate, on the ground of any supposed disqualification, it shall be lawful for him to apply to the Civil Judge for a summons, calling upon the Collector to appear within three months and prove the existence of such disqualification, and if the Collector shall fail to appear in person or by Vakeel within such time, or if the Civil Judge shall be satisfied on the due inquiry that the supposed disqualification never existed, or has ceased to exist, it shall be lawful for him to place the proprietor in possession, and such decision shall be final as to the facts then in issue, unless an appeal is preferred to the Court of Sudder Udalut within three months, and its decision shall in all cases be final.

False Report by Collector.

Ibid., s. 6.

CXIX. Where any proprietor shall have been deprived of the possession of his estate in consequence of a false report made by the Collector maliciously and without probable cause, it shall be lawful for him to sue the Collector, and on proof of the above facts, to recover such damages as the Court shall think fit; provided always, that where the decree is against the plaintiff he shall pay double the costs of the suit to the Collector, and that no such action shall survive against a subsequent Collector.

Appointment of Managers.

Ibid., s. 8.

CXX. It shall be the duty of the Collector to forward to the Court of Wards the names of the persons whom he shall think most fit to be appointed Managers, together with such applications for the office, and such recommendations from parties interested therein, as may have been laid before him, and it shall be competent for females at their own option to include or exclude their husbands in their recommendation of persons to be appointed Managers of their separate property, and the

Court of Wards shall thereupon proceed to nominate a Manager from among the parties so recommended; provided always, that when the said Court shall see due and sufficient reason to reject such recommendations, the cases respectively shall be finally decided by the Governor in Council.

Security Bond.

Reg. V. of 1804, *s.* 10.

CXXI. Persons appointed to manage the property of disqualified proprietors shall give good and sufficient security for their personal appearance during the course of their management, and shall execute the following obligation, "I, A. B., having voluntarily taken upon myself the management of the property of C, disqualified proprietor of D, do hereby solemnly promise and engage to manage the said property diligently and faithfully for the said proprietor; and to use all the means in my power to improve the property for the benefit of the owner. I also promise and engage to render a true and just account of my administration, whenever the same may bereq uired, and to be answerable for all embezzlement or misapplication of the property, to the extent of three times the amount which may be proved to be embezzled or misapplied during my management. And I further engage to adhere to such regulations as have been, or may hereafter be, framed for the guidance of Managers by the Court of Wards, and to abstain from all other advantage, directly or indirectly, than the allowance granted to me from the property committed to my charge under the authority of the Court of Wards.

Managers to receive salaries.

Ibid., s. 11, *cl.* 1.

Ibid., cl. 2.

CXXII. Managers having executed the aforesaid bond, shall be furnished by the Collector with a public commission of management, under the seal and signature of the Collector, and shall receive out of the estate such allowance (to be specified in the commission) as the Court of Wards shall sanction upon the recommendation of the Collector.

Managers to furnish inventories and accounts.

Ibid., s. 12, *cl.* 2.

Ibid., s. 14, *cl.* 1.

Ibid., s. 12, *cl.* 3.

CXXIII. On receiving charge of their trust, Managers shall furnish an exact inventory, under their seal and signature, to be lodged with the Collector, of the property committed to their custody. They shall also pay monthly to the Collector all sums of money received from the property under their charge, and furnish to the Collector true and faithful accounts of their receipts and disbursements, at the expiration of every year.

Power of Managers.

Ibid., s. 12, *cl.* 1.

CXXIV. Managers shall have the entire charge of the property, real and personal of the disqualified proprietors, excepting only, in cases

where the Manager may not be the Guardian, the house in which such proprietor may reside, and such articles as are required for his ordinary use and comfort. They shall also have power to nominate the several Officers necessary for the administration of the property in trust, and to appoint their salaries, subject however to the revision of the Collector, and to the final confirmation or rejection of the Court of Wards.

Reg. V of 1840, *s.* 11, *cl.* 5.

Collectors empowered to take charge of valuables.

CXXV. It shall be lawful for the Collector to take into his personal custody all jewels or other valuable property, which he may think it desirable to secure, and such property shall be lodged in the District Treasury, at the risk of Government, and a receipt for the same, signed by the Collector, shall be given to the Manager.

Managers not to lease or sell land.

Ibid., s. 15.

CXXVI. It shall not be competent to Managers to grant leases extending beyond the period of one year without the consent of the Collector in writing, nor to mortgage or dispose of any part of the property without the written permission of the Court of Wards.

Charges upon the Estate.

Ibid., s. 14.

CXXVII. It shall be the duty of the Collector, out of the monies which he shall receive in respect of the property under management, to set aside such sums as may from time to time be sanctioned by the Court of Wards, for the expenses of the management, and for the support or otherwise of the disqualified proprietor, and of those whom he is bound to maintain, and such sums shall be a first charge upon the funds in his hands, and shall be paid to the Managers, Guardians or Proprietors, as the case may be, as well in years of deficient as of surplus produce.

Government assessment how to be paid.

Ibid., s. 13.

Ibid., s. 14, *cl.* 4.

CXXVIII. The assessment payable to Government upon the estates of disqualified proprietors shall be fixed in the same manner as in the case of other lands, and shall be discharged by the Collector out of the proceeds of the estate after satisfying the charges mentioned in the previous section, and shall have priority over all other charges; provided always, that such estates shall not be liable to be sold for the payment of the public revenue assessed thereon, and that if the net collection of any year should prove unequal to the discharge of the fixed assessment with interest at the deficiency shall be made good out of such surplus collections as may have arisen since the commencement of the management, or as may accrue during its continuance, and that all deficiencies not so liquidated shall cease to be a charge upon the estate, at the termination of its management by the Court of

Reg. X. of 1831, *s.* 2, *cl.* 1.

Wards; provided also, that where the Court of Wards may have refused to take charge of the estate of a minor, which has descended to him by regular course of inheritance, such estate shall not, during his minority, be sold for arrears of revenue accruing subsequent to his accession to the same.

Disposal of surplus.

Reg. V. of 1804, *s.* 16, *cl.* 1.

CXXIX. Where the estates of disqualified proprietors shall yield a surplus, after discharging the expenses of management, the cost of maintenance, and the Government assessment, it shall be lawful for the Collector, with the written sanction of the Court of Wards, to employ such surplus in the improvement of the property, or in the purchase of land, or of the public Government securities, as may seem most fit.

Securities to be lodged with Government.

Ibid., cl. 2, 3.

Ibid., cl. 3.

Ibid., cl. 4.

CXXX. All title deeds, bonds, or other securities, received in respect of such purchases, shall be transmitted to the Court of Wards, and forthwith deposited in the public Treasury, where they shall remain at the risk of Government, and on deposit receipts in duplicate shall be given by some Officer of the Treasury authorized for that purpose, and one of the said receipts shall be given by the Collector to the Manager, and the other retained among the Collector's records, and all money due upon such Government securities shall be paid to the Collector, or Secretary of the Court of Wards, whose receipt in writing shall be a sufficient discharge in respect of the same, and who shall be responsible for the due application thereof.

Mangement of Estate held in joint ownership.

Bengal Reg. LII of 1803, *s.* 5.

CXXXI. 1st. Where an undivided estate is held by several proprietors, one or more of whom may be disqualified, it shall be competent to the Court of Wards to call on the shareholders to elect a Manager, who shall have the exclusive management of their property, real and personal, during the continuance of his appointment. The determination of the majority of the proprietors, or of the majority of those present in the event of the absence of any, shall be binding on the remainder in the choice of a Manager, and when the votes of the proprietors are equal, the election of the Manager shall be determined by the greater interest of the proprietors in the property. If in any case the interest also be equal, the Manager shall be appointed by the Court of Wards.

2nd. The Guardians of such proprietors as may be disqualified shall vote for them.

3rd. If the joint proprietors of an undivided estate, or their Guardians, shall neglect to

elect a Manager on the requisition made by the Court of Wards, under Clause 1 of this Section and communicated to them through the Collector of the District in which the estate is situated, the latter is authorized to nominate a Manager for the approbation of the Court of Wards, which Manager when confirmed by that Court shall have the exclusive management as long as it may be deemed advisable to continue him in that trust. The expense attendant on the appointment of the Manager shall nevertheless be, defrayed by the proprietors, who shall also be responsible for the discharge of the public revenue.

4th. The joint proprietors or any of them may obtain, if dissatisfied, a division of their lands, and a proportionate allotment of the revenue assessed thereon, but at their own expense, and the Guardian of the disqualified proprietor shall be entitled to demand an account of the management of the estate, and to sue in the ordinary way for such maintenance or share of the profits thereof as his Ward is entitled to by law.

5th. The rules contained in this Act for the management of the estates of disqualified proprietors shall not be held applicable to Managers of the description specified in the foregoing clauses of this section.

Power to contract debt.

CXXXII. No debts contracted by any disqualified proprietor, or by his Guardian or Manager, shall be binding upon the person or estate of such proprietor, without the written sanction of the Collector previously obtained, unless such debts shall have been contracted for purposes incidental to the proper management of the estate, or for matters of daily or pressing necessity; provided always, that nothing in this section shall affect any personal liability which may affect the Guardian or Manager in respect of such contracts.

Payment of Private debts.

Regulation V of 1804, *s.* 17.

CXXXIII. It shall be the duty of the Collector, with the written sanction of the Court of Wards, to pay all private debts of which payment shall be demanded, and which may be proved to be due, and binding upon the estate, and such debts shall rank as a charge upon the estate, next after the Government assessment, and shall be liquidated in the order of the time at which they were contracted; and all demands for payment of such debts shall be forwarded at once to the Court of Wards for their orders, and the decision of the Court shall be communicated to the claimant, or his authorized agent with all convenient despatch.

When suits may be brought.

CXXXIV. It shall be lawful for every creditor who shall have made a demand in writing upon the Collector, and whose claim shall have been rejected by the Court of Wards, or whose claim shall have been admitted, but not satisfied by the Collector, to sue the disqualified proprietor along with his Guardian and Manager, in the ordinary civil tribunals, and the Collector may appear, and join in defending such suit, and if the decree shall be for the plaintiff, it may be enforced against the estate according to the ordinary course of law, but no execution shall issue against the proprietor personally till after the removal of all disqualification; provided always, that no creditor shall be entitled to sue during the period of disqualification till after such written demand as is abovementioned, and that no debt shall bear interest during such period, unless written notice thereof shall have been given to the Collector, within three months after such disqualification commenced, or after such debt was contracted, whichever shall have last happened.

Period of limitation.

CXXXV. All debts due from the estates of disqualified proprietors shall be barred by the ordinary period of limitation, unless they shall have been demanded in writing, and admitted by the Collector before the expiration of such period, and where such claim shall have been allowed, and not liquidated before the removal of the disqualification, then the period of limitation shall run from the date of such removal.

Power to appoint Guardian by Will.

Reg. V. of 1804, *s.* 19, *cl.* 5.

CXXXVI. Proprietors of estates whose heirs may be disqualified, shall be free to nominate by Will persons to be Guardians of their heirs; and such nomination shall be in writing, signed by the testator in the presence of two witnesses who shall attest the same, and shall be reported by the Collector, and confirmed by the Court of Wards, in all cases in which the parties named are qualified and willing to accept the trust.

Appointment of Guardians where no Will.

Ibid., s. 18.

CXXXVII. In all cases where a disqualification may arise, and where no Guardian shall have been nominated as above provided, it shall be the duty of the Collector to forward a report of the case to the Court of Wards, with a description of the condition of the persons concerned, the value of the property, and the names of the persons whom he shall consider most proper to be appointed Guardians, together with such applications for the office, and such recommendations from parties interested therein, as may have been laid before him, and the Court of Wards shall thereupon proceed to nominate a

Reg. V of 1804, *s.* 19, *cl.* 1—3.

Guardian, and the Manager shall be eligible for such situation, provided always that in the case of a female minor, the Guardian shall be a female, and that in no case shall the next legal heir, or any person who may appear to have any interest, direct or indirect, in the death or continued incapacity of the disqualified proprietor, be selected for the office; provided also, that it shall be competent to the Court of Wards to allow a fixed salary to such Guardian, where no fit person can be found to undertake the charge gratuitously.

Ibid, s. 21, *cl.* 2.

Security Bond.

Ibid, s. 21, *cl.* 1.

CXXXVIII. Persons appointed to be Guardians, and accepting the trust, shall give security for their personal appearance during the continuance of the said trust, and shall execute an obligation according to the following form; that is to say,

"I, A. B., having voluntarily accepted the office of Guardian of C, being the disqualified proprietor of D, do hereby solemnly promise and engage to execute the duties committed to me zealously and faithfully, to the best of my judgment, and according to law; I will conscientiously obey the orders of the Court of Wards and will appropriate the allowance granted for the maintenance and (if the ward be a minor) for the education of my ward, to the benefit of the said ward; and will abstain from all other advantage than what may be allowed to me by due authority, directly or indirectly arising from my office of Guardian; I also engage to render true and faithful accounts of all moneys received by me on account of my ward, under the penalty of forfeiting treble the amount of any sums which may be proved to have been embezzled or misapplied, and I do hereby bind myself, my heirs and successors, to make good the said penalty upon due proof of my default.

After executing this obligation, persons appointed to be Guardians shall be invested with their trust by a public commission under the seal and signature of the Collector.

Duties of Guardians.

Ibid, s. 21, *cl.* 3.

Ibid, cl. 6.

Ibid, cl. 7, 8.

CXXXIX. It shall be the duty of Guardians to receive the money allowed for the use of their wards, and to appropriate the same as may seem best for the proper fulfilment of their trust, to choose and recommend proper servants for the use of their wards, whose wages shall be defrayed from the funds set apart for maintenance, to provide for the proper education of female minors, and to deliver to the Collector such accounts and vouchers for their receipts and disbursements as he may require, subject however

in all respects to the revision, control, and orders of the Collector and the Court of Wards.

Custody and education of male minors.

Reg. V of 1804, cl. 9.

CXL. Female relations shall not have the charge of male minors after they have attained the age of seven years, and the education of such minors shall be superintended and controlled in the manner hereinafter provided.

Documents how authenticated.

Ibid., s. 22.

CXLI. The Guardians and Managers of disqualified proprietors shall authenticate papers by their seals and signatures. The seals of wards, together with those of the previous proprietors, shall be delivered to the Collectors, and lodged in their Treasuries so long as the disqualification lasts.

CXLII. The general superintendence and control of the education of every male minor, whose property has been, or shall be brought, under the management of the Court of Wards, in, and for any part of the Presidency of Fort St. George, by virtue of any Act or Regulation which now is, or hereafter shall be, in force, is hereby vested in the Collector of Revenue, acting under the said Court of Wards, in the Zillah or District wherein such minor's estate is situate; or, if such minor is possessed of immovable property in different districts, in such one of the Collector's of Revenue of such districts as the said Court of Wards shall select.

CXLIII. It shall be lawful for every Collector of Revenue, in whom the superintendence of the education of any minor is vested by this Act, to direct that such minor shall reside, either with or without his Guardian, at the Sudder station of the district, or at any other place within the said Presidency, and shall attend, for the purpose of education, such School or College as to the said Collector may seem expedient; and to make such provision as may be necessary for the proper care and suitable maintenance of the said minor whilst attending such School or College.

CXLIV. If it shall appear to the Collector inexpedient to place any such minor at a School or College, he shall cause such minor to be educated by a private tutor, properly qualified, either at the family residence of such minor, or at the Sudder station, or elsewhere, within the said Presidency, and in that case also the Collector shall have power to determine from time to time the place of residence of such minor, and to make such provision as may be necessary for his proper tuition and maintenance during the period of his education.

CXLV. All charges and expenses which may be incurred on account of any male minor ward under the provisions of this Act, for College or School fees, or for other charges of tuition or education, or by reason of his residence in any place other than his own home, or otherwise, shall be defrayed from the profits of his estate, in the same manner as other expenses incurred under the authority, or with the sanction of the Court of Wards.

CXLVI. Whenever a minor, whose property is under the management of the Court of Wards, has a younger brother or brothers entitled to maintenance at the charge of the estate, all the powers and provisions hereinbefore contained for promoting the education of such minor are hereby declared and made applicable to such younger brother or brothers.

CXLVII. Whoever knowingly aids or abets the marriage of any minor, whose property is under the superintendence of the Court of Wards, or the marriage of a younger brother or sister of such minor, without the leave of the Collector of Revenue, acting under the Court of Wards, to such marriage first had and obtained, shall, on conviction before a Court of Session, upon the prosecution of such Collector, be liable to a fine not exceeding two thousand Rupees, or to imprisonment not exceeding the term of six months, with or without hard labour.

Suits against disqualified Proprietors.

Reg. V. of 1804, *s.* 23.

CXLVIII. Disqualified proprietors, being in the charge of Guardians, shall not sue or be sued in any civil action except as under the protection, and in the joint names of their Guardians, and wherever such action shall effect their title to their property, or any interest therein, the Manager also shall be joined.

Power of dismissal by Court of Wards.

Ibid., s. 11, *cl.* 3, 6.

CXLIX. It shall be competent to the Court of Wards to remove all Managers, Guardians, and Subordinate officers or servants, in all cases where any misconduct, neglect of duties, incompetency, or other unfitness for their position may, in the opinion of such Court, be established against them, and such sentence of dismissal shall be final, unless an appeal is preferred to the Local Government within three months from the date of the decision.

CL. Any Guardian or Manager who may have been removed, or have resigned, and the heirs of any Guardian or Manager who may have died, shall notwithstanding suchremoval, resignation, or death, continue liable to account for his receipts or disbursements during his tenure of office, and every guardian or manager appointed in the place of one who may have

been removed, or who may have died, resigned, or refused to act in such capacity, shall be chosen in the same way, and shall have the same rights and powers, and be subject to the same responsibilities, as persons originally appointed.

Enforcing bond in case of embezzlement.

Reg. V of 1804, *s.* 11, *cl.* 3.

CLI. Where any Guardian or Manager shall be unable to produce, or satisfactorily to account for any monies which came into his hands, in the execution of his trust, it shall be lawful for the Court of Wards to direct the Collector to enforce the bond given by such Manager or Guardian, to such extent as the Court may think fit, and the amount shall be recovered in the same way as arrears of revenue, and all payments so enforced shall be carried to the credit of the estate; provided always, that an appeal shall lie from such order to the Court of Suder Udalut within three months from its date, and that it shall be competent for the Court in disposing of the appeal to call for and receive, or to direct the Civil Judge of the District in which the estate may lie to take such further evidence, as it may consider the justice of the case demands.

Suits and prosecutions.

Ibid., *s.* 24.

CLII. Where any charge of fraud or misconduct shall be brought against any Manager, Guardian, or other person concerned in administering the estate of a disqualified proprietor, it shall be the duty of the Court of Wards to inquire into the justice of the accusation, and if they shall be of opinion that it is well founded, they shall direct the Collector to institute such proceedings, civil or criminal, in the ordinary tribunal, as they shall think proper, and any suit or prosecution commenced in the name of any Collector, who may be removed from office before final judgment, shall be continued in the name of his successor for the time being.

Actions by disqualified proprietors.

Ibid., *s.* 23, *cl.* 2, *s.* 26.

CLIII. It shall be competent for disqualified proprietors, either in person, or by their next friend, or duly constituted agent, to sue any Collector, Manager, or Guardian in respect of any act done by him, which may have injuriously affected their person or property; but no such suit shall be received during the period of disqualification, unless a written permission to commence such action shall have been granted by the Court of Wards, and shall be filed along with the plaint, and unless security for costs shall have been given; provided always, that nothing herein contained shall affect the right of any person to institute criminal proceedings in the ordinary manner.

Limitation of suits.

CLIV. The period of limitation in respect of all causes of action which may have arisen to the proprietor of an estate during the existence of a disqualification, shall date from its removal, but all suits which may be brought by any proprietor against any Collector, Manager, or Guardian, in respect of any act done or omitted by him while the estate was under management, shall be commenced within one year after such management has ceased.

Suits against Collectors.

Reg. V of 1804, *s.* 27.

CLV. All proceedings which may be instituted against any Collector in respect of any act done, or omitted by him while any estate is under his charge, shall be defended at his own expense, unless the matter complained of was expressly ordered or sanctioned by this Act, or was done under the authority, general or special, of the Court of Wards; provided always, that no action, which may be brought to recover damages from any Collector, on account of any such unauthorized act, shall survive against his successor in office.

Adoption by disqualified proprietor.

Ibid., s. 25.

CLVI. No adoption made by any disqualified proprietor shall be valid, unless it shall have been sanctioned, or ratified, in writing by the Court of Wards.

Property not subject to the jurisdiction of the Court of Wards.

Reg. X. of 1831, *s.* 3.

CLVII. The provisions of Sections 18, 25, 26 and 28 of this Act shall be extended to property of every description, not subject to the jurisdiction of the Court of Wards, and to the heirs of single as well as joint possessors of property, real and personal.

CHAPTER IV.

Regulating the settlement of the Land Assessment, and the Collection of the Public Revenues in the Territories subject to the Presidency of Fort Saint George.

SETTLEMENT OF THE LAND ASSESSMENT.

Liability of land to Assessment.

Bombay XVII of 1827, *s.* 2.

CLVIII. All land, to whatever purpose it may be applied, shall be liable to the payment of revenue to Government, unless specially exempted.

Unoccupied land.

Ibid., s. 7.

CLIX. Unoccupied land not exempt from assessment may be disposed of by the Collector, for the benefit of the revenue, or for such purposes as Government may sanction; provided always, that such disposal shall not affect any rights to preference, occupation, or otherwise, which any persons may possess over such lands.

Mode of making settlement.

Ibid., s. 1

Ibid., s. 3.

CLX. The settlement of the assessment in each district shall be conducted by the Collector, under the orders of the Board of Revenue and such settlement shall be made with the occupant of the land, or in his absence with his

authorized agent, or with the person holding directly under him where no such agent can be found. For the purposes. of this Act, the cultivator is to be considered the occupant, when the land is held by him direct from Government, and when it is not so held, the person having the highest right or holding, recognized by the custom of the country, or resting on special grant, which intervenes, between the Government and the cultivator, is to be so considered.

Land permanently settled.

CLXI. Where land is held under a Sunnud Milkut-i-Istimrar, other similar deed of penal character the conditions of the instrument shall be strictly observed, except so far as the same are affected by Sec. LVIII. of Chap. II of this Code unless both parties agree to any deviation therefrom; and in all cases in which such Sunnud shall have been lost or destroyed, it shall be assumed to have been in the form given in Schedule A, of this Act, unless the contrary appears from any counterpart in the custody of the Revenue authorities, and the party entitled thereto shall on demand receive a new Sunnud in the same form.

Land not permanently settled.

Reg. II of 1803, *ss.* 38, 40.

Bombay XVII of 1827, *s.* 4.

CLXII. The assessment on lands not permanently settled shall be fixed with due regard to all established rights, and to local usage, under such rules as are now, or may hereafter be legally in force, and rates once settled shall not be altered without the authority, general or special, of the Board of Revenue; provided always, that nothing herein contained shall affect the right of Government to introduce such new rules, or principles of assessment as may seem fit.

Power to relinquish land.

Bombay XVII of 1827, *s.* 6., *cl.* 1.

CLXIII. Every occupant of land shall be at liberty to relinquish his holding, or any part thereof, being not less than a single revenue field or number, or than such occupants part of such field or number, and shall thereupon cease to be liable to pay the assessment thereon; but written notice of such intention must be given to the Collector, or to the Tahsildar, on or before such date as may from time to time be fixed by the Local Government and, in default of such notice, he shall be liable to pay the assessment of the land for the succeeding year.

Registry.

Reg. III of 1803, *ss.* 23, 24.

Reg. XXVI of 1802, *s.* 2.

CLXIV. Every occupant of lands paying assessment to Government shall be entered in a registry, which shall contain his name, the situation and extent of his holding, and the assessment thereon, and such other particulars as the Board of Revenue may direct, and such registry shall be open to inspection at all reason-

able hour, and all persons shall be entitled to copies of any part thereof, under such rules, and on payment of such fee as may be fixed for obtaining copies of official documents, and a certified copy of such registry shall be *primâ facie* evidence of occupancy in all Courts of Justice and against all parties, without proof of the death or official character of the person making the same.

Change of Registry.

CLXV. It shall be the duty of the Collector to order the registry of the whole or part of such lands to be cancelled, or transferred into the name of any other person, who may establish a *primâ facie* title thereto, upon satisfactory proof of the death of the registered occupant, or of his having relinquished the land to Government, or of his having assigned it in a manner allowed by law, or of its having been sold, wholly or in part, for arrears of revenue, or by the decree of a Court of Judicature; provided always, that no such cancelment or transfer shall take place, until one month after a written notice has been served upon the registered occupant, or upon his authorized agent, or legal representative, except in cases where the application shall have been made by him or them in person, and that all parties aggrieved by such cancelment or transfer, shall be at liberty to bring a suit, within the ordinary period of limitation, against the party registered in lieu of the former occupant, where the Collector has made the transfer, or against the Collector, when no new registry has taken place.

Where Collector refuses to alter Registry.

CLXVI. Wherever the registered occupant of land shall have applied in writing to the Collector to cancel the registry standing in his name, or to transfer the same to some other person, and the Collector shall have refused so to do for three months after such application, it shall be lawful for the occupant to sue the Collector in the Civil Court, with a view to enforce such change in the registry, and to recover damages for any loss that may have been incurred, and such suit shall take precedence of all others then on the file; provided always, that where the Collector shall have acted under the order of the Board of Revenue, he shall be reimbursed all sums of money which he may be liable to pay under the judgment of the Court.

Apportionment of Assessment.

Reg. XXV of 1802, *s.* 8.

CLXVII. Where only a part of the land held by any registered occupant, under a Sunnud Milkut-i-Istimrar shall have been transferred

from his name, he shall still remain primarily liable to pay the whole assessment, until it shall have been apportioned by the Collector in the manner provided by law; but when such apportionment shall have been fixed, he shall be entitled to recover all sums paid in respect of the section which he has ceased to hold, from the Collector, where such portion has been relinquished to Government, and from his assignee, where it was made over to some third party.

COLLECTION OF THE LAND ASSESSMENT.

Notification of instalments.

Bombay XVII of 1827, *s.* 10.

CLXVIII. The Collector shall cause notice to be given of the respective periods at which the instalments of the revenue become due, and of the person to whom, and the place at which payment is to be made, and such notice shall either be specially communicated to the occupant of the land, or affixed upon the doors of the Collector's and Taluq and Sub-Magistrates Cutcherry, (and the Zillah and District Moonsiff's Courts); provided always, that want of such notice shall be no excuse for non-payment of the assessment.

How Assessment is to be paid.

Reg. XXVII of 1802, *s.* 2.

CLXIX. It shall be the duty of the occupant of land assessed to Government to pay each instalment as it becomes due, to the person, and at the place named by the Collector, without waiting for a specific demand, and all Revenue which shall remain undischarged after the twentieth day of the month in respect of which the instalment is due, shall be deemed an arrear, and shall bear interest at the rate of one per cent. per month.

Ibid., *s* 8.

Liability for Assessment.

Bombay XVII of 1827, *s.* 5.

CLXX. The registered occupant shall be primarily liable, in person and property, for all revenue due upon his land, but where any arrears shall remain undischarged, it shall be lawful for the Collector or Tahsildar to make a written demand for the amount due upon any person in actual possession of the land under such occupant, and at the expiration of one month after such demand, the same shall be enforced by all such means as might have been employed against the superior holder; and every person compelled to make such payment shall be entitled to deduct the amount from any sums, in which he may then, or afterwards, stand indebted to the occupant of the land; provided always, that so much of this clause as relates to inferior holders, shall not apply where the estate is held under a Sunnud Milkeut-i-Istimrar, and that the crops of under-tenants shall in no case be seized for any arrears due by their landlord to Government.

CLXXI. Wherever any demand of arrears of revenue or any notice is served upon any defaulter under the provisions of this Code, the batta of the peon serving such demand or notice shall be added to the amount of arrears due, and shall be calculated at the rate of half an Anna per mile from the place where such demand or notice is issued to the residence of the party served, and shall be recoverable in the same manner as arrears of revenue.

Prohibition against removal of crops.

Ibid., s. 11, *cl.* 1, 2.

CLXXII. Where the Collector shall have reason to apprehend a default in payment of the revenue, assessed onlands held under Ryotwary tenure, it shall be lawful for him, by notice in writing, to forbid the removal of the crops growing upon the land, without his written sanction, and wherever the occupant, or person in possession of the land shall be proved before the Collector to have caused, or connived at such unauthorized removal, after notice given, he shall be liable to a fine not exceeding half the current value of the crops removed, to be fixed and levied as an ordinary assessment.

Notice, when and how to be served.

Ibid.

CLXXIII. Every such notice shall be served upon the occupant, and the person in actual possession, or their authorized agents, or affixed to the door of their last known place of residence, where they shall be absent without leaving any authorized agents, and also upon the doors of the Taluq Cutcherry and Police station nearest to such place of residence.

Power to place watcher.

Bombay, XVII of 1827, *s.* 11, *cl.* 3.

CLXXIV. It shall be lawful for the Collector to cause watchmen to be placed over the crops, to prevent the unlawful removal of the same, and to exact their pay from the occupant at the rate received by the peons on the taluq Establishment, in the way provided for the realization of the revenue.

Prohibition not to operate to the injury of the crops.

Ibid., cl. 4.

CLXXV. The Collector shall in no case defer the removal of the produce so as to cause any injury thereto, and within two months after the crop has been cut, it shall be his duty either to release it, and to realize the revenue according to the ordinary course of law, or to take such portion thereof, not exceeding one-half, as he may deem equivalent to the revenue due, and 20 per cent. on the same as a security against contingent expenses, and to relinquish the remainder to the rightful owner.

Security for revenue about to fall due.

Ibid., cl. 5, 6.

CLXXVI. It shall be lawful for the Collector in lieu of attaching the crops, to receive security from the occupant or person in possession of the land, for the payment of the revenue when

it shall come due, and all arrears thereof; provided always, that whenever the Collector shall see reason to doubt the adequacy of the security, it shall be lawful for him to impose or renew such prohibition as is abovementioned.

Demand of arrear of revenue.

Reg. XXVII of 1802, *ss.* 3, 4.

CLXXVII. Whenever revenue may be in arrear, it shall be the duty of the Collector, Tahsildar or any other Officer empowered by the Collector in that behalf, to make a written demand upon the person primarily liable to pay the same, and such demand shall specify the amount due, and the holding in respect of which it is claimed, and the name of the party in arrear, and the time for payment, which shall be fixed with reference to the distance from the residence of the party to the place at which the money is to be paid; and shall also state the batta due to the peon who shall serve such demand, and the said demand shall be served by delivering a copy to the party, or to some adult male member of his family at his usual place of abode, or to his authorized agent, in the event of his absence, or by affixing a copy thereof on some conspicuous part of his last known residence, where service cannot be affected in any other way.

Neglect of demand.

Ibid., s. 5.

CLXXVIII. Where the amount due shall not have been paid pursuant to the terms of the demand, and no arrangement for securing the same shall have been entered into to the satisfaction of the Collector, the person so in arrear shall be deemed a defaulter, and the Collector shall proceed to realize the arrear and costs by attachment, sale, or distress, or by execution against the person of the defaulter, in manner hereinafter provided.

Appointment of Agent in case of attachment.

Ibid., s. 10., *cl.* 1.

Reg. II of 1803, *s.* 15.

Reg. XXVII of 1802, *s.* 10., *cl.* 1.

CLXXIX. Where a Collector may proceed to attach the lands of a defaulter, he shall appoint an agent, with a proper establishment of officers, to manage the estate, and shall give the agent a Certificate of appointment, with written instructions under his seal and signature, and the expenses of management shall be defrayed out of the income of the estate; provided always, that where the property may be too inconsiderable to admit of its being charged with the salary of an agent, it shall be committed to the care of such Revenue officer as the Collector may select who shall be subject to all the provisions herein contained in reference to agents.

Notice of attachment.

CLXXX. Notice of the attachment of the estate, and of the appointment of an agent shall be given without delay, in the manner described in Section XXIV of this Code, and by public proclamation.

Duties of Agent.
Reg. XXVII of 1802, *s.* 10., *cl.* 1.

CLXXXI. It shall be the duty of the agent to collect the rents or revenues due, or accruing due upon the estate, according to the engagements subsisting between the defaulter and the parties holding under him, or according to established usage where no specific engagements exist, and to keep accounts of all his receipts and disbursements, and to submit the same, and pay over the balance to the Collector monthly, or whenever required, and the defaulter shall be at liberty to inspect the accounts at all reasonable times, and to take copies of the same at his own expense, without further fee.

Liability of Agent to suit or prosecution.
Ibid.,

CLXXXII. It shall be lawful for the defaulter to proceed by prosecution or suit against the agent, in respect of any criminal or illegal act done by him to the injury of the defaulter or his estate, and all tenants, or other persons holding by subordinate title, shall have the same remedies against him, by summary proceeding before the Collector or otherwise, as they would have had against the defaul er, if the act were done by him.

Effect of existing agreements.
Ibid., cl. 2, 4.

CLXXXIII. All engagements entered into between the occupant of an estate and his tenants in reference thereto, except such as are hereinafter mentioned, shall be binding upon the Collector during attachment, but all such engagements made collusively with a view to defeat or delay the effect of the attachment, and all leases of land at a rate lower than the usual rates of assessment, and not made *bonâ fide* for the purpose of erecting factories or buildings, or of bringing waste land into cultivation, and all engagements made subsequently to default, shall be null and void against the Collector, if he shall so declare; subject, however, to the right of the parties to such agreement to bring a suit against the Collector in the ordinary tribunals to establish the same; and all charges or incumbrances upon such land shall be postponed to the payment of the public revenue.

Payments by Tenants.
Ibid., cl. 3, 5, 6.

CLXXXIV. All payments of rent or revenue actually due, made before public notice of attachment, to any occupant by any person holding under him, shall be valid against the Collector, and all such payments made after public notice of attachment, or made before they were actually due, shall be null and void against the Collector, who shall be entitled to recover the full amount from the parties by whom it was paid, leaving them to sue the defaulter in the ordinary Courts of law.

Withdrawing Attachment.
Ibid., s. 13, *cl.* 5.

CLXXXV. All sums received from the property attached, after paying the expenses of

management, shall be carried to the credit of the defaulter in discharge of the arrears due, and interest thereon at the rate of one per cent. per month, and as soon as all arrears, interest, costs of attachment, and expense of management shall have been liquidated, the attachment shall be withdrawn, and a full account rendered of all receipts and disbursements during its continuance.

Persons interested in the land may release it from attachment.

CLXXXVI. It shall be lawful for any person claiming an interest in land which has been, or is about to be attached, to obtain its release by paying the arrears, interest, and costs incurred; and all such sums, if paid by a tenant, may be deducted from any rent then, or afterwards due by him to the defaulter; and if paid by a *bonâ fide* mortgagee or incumbrances upon the estate, shall constitute a debt from the defaulter to him, and shall be a charge upon the land, but shall only take priority over other charges according to the date at which the payment was made.

CLXXXVII. Whenever any property, real or personal, shall be sold for arrears of revenue under the provisions of this Act, a sum not exceeding 6¼ per cent. upon the proceeds of the sale, shall be payable as commission to the person by whom the property is sold, and the amount of such commission shall be added to the amount of revenue due and shall be recoverable in the same manner as arrears of revenue; provided always, that when such property is sold by any officer of Government, the commission shall be paid into the Treasury and carried to the account of Government (unless otherwise specially directed.)

Sale of Land.

Reg. XXV of 1802, *s.* 7.

„ *XXVI of* 1802, *s.* 1.

„ *X of* 1831, *s.* 2.

„ *XXVI of* 1802, *s.* 6.

CLXXXVIII. It shall be lawful for the Collector to sell the whole, or any portion of the land of a defaulter, in discharge of arrear of revenue, subject to the provisions of Section CLXXIII of the Chapter for constituting a Court of Wards; provided always that, so far as may be practicable, no larger section of the land shall be sold than may be sufficient to discharge the arrears, and expenses of sale, and of attachment, where the land has previously been attached, with commission as prescribed in the previous section; and that where only a part of any land held under a Sunnud Milkut-i-Istimrar may be sold, the assessment upon such part shall be apportioned previous to sale in manner provided by law.

Notice of sale.

Ibid, s. 11.

CLXXXIX. Where the Collector may proceed to sell land for arrears of revenue, he shall issue notices in English, and in the language of the District, which shall specify the name of

Ibid., s. 11.

Reg. II of 1803, *s.* 19.

the defaulter, the position and extent of the land, the amount of revenue assessed thereon, or upon its different sections, all particular obligations which may attach to the purchaser, and the time and place of sale; these notices shall be served upon the defaulter in the manner specified in Section CLXXVII, and shall be affixed upon the doors of the Collector's and Taluq Cutcherries, and of the nearest Police station, and in such other public places as the Collector may direct, for at least thirty days previous to the sale; provided always, that no sale shall be rendered void, merely on account of some defect in the notices issued, or for want of such personal service upon the defaulter as is herein directed.

Tender.

Reg. XXVII of 1802, *s.* 30.

E. Min. Con., Sept. 1856, *para.* 17.

CXC. It shall be competent to the defaulter, or to any person acting on his behalf, or claiming an interest in the land, to tender the full amount of the arrears of revenue, with the interest thereon, and all charges which have been incurred in demanding the arrears, or in attaching the estate, or in taking the steps necessary for sale, and thereupon the sale shall be stayed; provided always, that such tender must be made at least five days previous to the day appointed for sale, and all sums so paid by any tenant, or *bonâ fide* mortgagee or incumbrancer, may be recovere l in the manner provided in Section CLXXXVI.

Deposit at time of sale.

Reg. XXVI of 1802, *s.* 12.

Ibid., s. 13.

CXCI. Land shall be sold by public auction to the highest bidder, who shall be required to deposit 15 per cent. of the price, when the purchase is declared, and where the purchase is not completed according to the conditions of sale, the money so deposited shall be forfeited. Where the first purchaser may fail to make the said deposit, or to complete the purchase as stipulated in the conditions, the property shall be sold again at his risk, and all loss and expense arising out of the resale shall be recovered from him in the same manner as arrears of revenue. Any advance of price which may be obtained at a second sale, shall be carried to the account of the defaulter.

Parties bidding to exhibit their authority.

CXCII. All persons intending to bid at a sale, shall state before its commencement whether they are about to bid on their own behalf or as agents, and in the latter case shall deposit a written authority, signed by their principal, and every person falsely representing himself to be a principal, shall, on proof thereof before the Criminal Judge, be liable to a

fine not exceeding Rupees , and every person knowingly producing a fabricated authority to bid, shall be liable to the penalties of forgery, and in each case, all monies paid in respect of such sale shall be forfeited, and the land shall be put up to auction again, at the risk of the fraudulent purchaser or his principal.

Defaulters not to become purchasers.
Reg. XXVI of 1802, s. 18.

CXCIII. It shall not be lawful for defaulters to purchase their own lands when sold for arrears of revenue, and all purchases so made whether directly, or by some person as agent or trustee for the defaulter, shall, on proof thereof before the Civil Court, be declared null and void, and all monies paid in respect of such sale shall be forfeited.

Purchaser to be registered.
Ibid., s. 17.

CXCIV. Lands purchased at a public sale shall be registered in the name of the actual purchaser, who shall receive a certificate of sale, signed and sealed by the Collector, which shall be conclusive evidence of the fact of the purchase, in all Courts and tribunals where it may be material to establish the same, and no proof of the Collector's seal or signature shall be necessary, unless the authority before whom it is produced shall have reason to doubt its genuineness, and public proclamation of the purchase shall be made in all the town and villages of the lands sold, and the purchaser shall be placed in possession to the extent, and in the manner provided by law.

Ibid. s. 15.
Ibid. s. 16.

Contracts, &c., binding on the purchaser.

CXCV. All contracts entered into by the defaulter with his tenants, and all payments to him by them, shall be binding upon the purchaser to the same extent, and under the same conditions, as laid down in Sections CLXXXIII and CLXXXIV of this Chapter; provided always, that when the land shall not have been attached previous to sale, all payments which would have been valid if made before notice of attachment, shall be valid if made before public notice of intention to sell.

Sale to be free of all incumbrances.

CXCVI. Every estate, or section of an estate, set up for sale on account of arrears of revenue, shall be sold free of all incumbrances, and whatever balance may remain after liquidating the arrears, and the expenses of attachment and sale, and other costs due in respect of such arrears, shall be paid over to the defaulter, to whom alone incumbrancers shall have recourse; provided always, that it shall be lawful for parties having claims upon the estate to lay them before the Collector, and that it shall be competent for him where such claims shall appear to be

genuine, to pay the balance, or so much thereof as would satisfy the claims into the Treasury of the Civil Court, to be retained until the parties have settled their rights by ordinary course of law.

Power to distrain and sell moveable property.
Act XXXIX of 1858, *s.* 2.

CXCVII. The Collector or the Tahsildar shall have authority to proceed for the recovery of arrears of revenue by distress and sale of the movable property of the defaulter, or, in case of lands held under Ryotwary tenure, of the person in actual possession of the land in respect of which revenue may be unpaid, wherever such property may be found; provided always, that bullocks necessary to the cultivation of a tenant's holding, ploughs and implements of husbandry, and the tools of artizans, shall not be subject to distress or sale.

Seizure and sale of movable property to be made as follows.
Ibid. s. 3.

CXCVIII. In the seizure and sale of movable property for arrears of revenue or rent, the following rules shall be observed :—

Collector to furnish person distraining, with a demand in writing.

First.—The Collector or the Tahsildar or any other Officer empowered by the Collector in that behalf, shall furnish to the person employed to distrain the property of a defaulter, a demand in writing and signed with his name, specifying the amount of the arrear for which the distress may be issued, and the date on which the arrear fell due. The person so deputed shall produce the writing as authority for making the distress, and on the day on which the property may be distrained, shall deliver a copy of such writing to the defaulter; endorsing thereon a list of inventory of the property distrained, and the name of the place where it may be lodged or kept.

Defaulter to be served with a copy.

Writing to state that the distrained property will be sold.

Second.—The writing shall further set forth that the distrained property will be immediately brought to public sale, unless the amount and the expense of the distress be previously discharged.

Mode of service when defaulter is absent.

Third.—When a defaulter may be absent, a copy of the writing, with the endorsement, shall be fixed or left at his usual place of residence before the expiration of the third day, calculating from the day of the distress.

Consequence of defaulter neglecting to pay after notice, or absenting himself.
Ibid. s. 4.

CXCIX. Where a defaulter on receiving notice may neglect to pay the amount due or to give satisfactory security for early payment, or where a defaulter may have absconded, or may be otherwise not forthcoming, so that the notice cannot be served upon him, the distrainer shall in either case transmit an inventory of the property distrained to the nearest public Officer empowered to sell destrained property, in order

that it may be publicly sold for the discharge of the arrear due.

CC. It shall be lawful for the Collector; Tahsildar, or other Officer empowered by the Collector in that behalf to depute some fit person to perform the duties of a distraining Officer, and the person so deputed shall be paid at the rate of per day, for every day during which he is actually engaged in carrying out the distress, and the amount so payable shall be added to the amount of arrears due and shall be recoverable along with, and by the same process as, the arrears of revenue.

Distrained crops how to be dealt with.

Ibid. s. 6.

CCI. The distrainer attaching the crops or ungathered products of the lands belonging to a defaulter, may cause them to be sold when fit for reaping or gathering, or at his option may cause them to be reaped or gathered in due season and stored in proper places until sold. In the latter case the expense of reaping or gathering and storing such crops or products, shall be defrayed by the owner upon his redeeming the property, or from the proceeds of the sale in the event of its being sold.

Distrained cattle or goods not to be used.

Ibid. s. 7.

CCII. The distrainer shall not work the effects distrained; he shall provide the necessary food for the cattle or live-stock, the expense attending which shall be defrayed by the owner upon his redeeming the property, or from the proceeeds of the sale in the event of its being sold.

Officer responsible for neglect in respect to distrained property.

Ibid. s. 8.

CCIII. Where property distrained may be stolen, or lost, or damaged by reason of the necessary precautions for its due preservation not having been taken, the loss or damage shall be made good by the Officer whose neglect occasioned the loss or damage.

Distress to be proportionate to the arrear.

Act XXX of 1858, s. 9.

CCIV. The distress levied shall not be excessive, that is to say, the property distrained shall be as nearly as possible proportionate to the amount of the arrear.

Time for distress.

Ibid. s. 10.

CCV. Distress shall be made after sun-rise and before sun-set and not otherwise.

What places distrainer may force open.

Ibid. s. 14.

CCVI. The distrainer shall have power to force open any stable, cow-house, golah, granary, godown, out-house, or other building, as also to enter any dwelling-house, the outer-door of which may be open (excepting the apartments in such dwelling-house appropriated for the Zenana or residence of women), and to break open the door of any room in such dwelling-house for the purpose of attaching property belonging to a defaulter and lodged therein.

Powers of distrainer to force open doors in the presence of a Police Officer.

Act XXX of 1858, *s.* 15.

CCVII. Where a distrainer may have reason to suppose that the property of a defaulter is lodged within a dwelling-house the outer-door of which may be shut, or within any apartments appropriated to women which by the usage of the country are considered private, such distrainer shall represent the same to the head Officer of Police (within whose jurisdiction the house may be situated), and on such representation, the head Officer of Police shall send a Police Officer to the spot, in the presence of whom the distrainer may force open the outer-door of such dwelling-house, in like manner as they may break open the door of any room within the house, except the Zenana; the distrainer may also, in the presence of the Police Officer, after due notice given for the removal of women within a Zenana, and after furnishing means for their removal in a suitable manner (if they be women of rank who according to the customs of the country cannot appear in public,) enter the Zenana apartments for the purpose of distraining the defaulter's property deposited therein; but such property, if found, shall be immediately removed from such apartments, after which they shall be left free to the former occupants; and nothing in this Act shall be understood to authorize a distrainer or his agent to force open the door of a dwelling-house, or to enter the apartments of women which by the usage of the country are considered private, in any other mode than is herein prescribed.

Punishment for unlawful entry.

Ibid. s. 16.

CCVIII. Persons entering the apartments of women, or forcing open the outer-door of dwelling-houses, contrary to the provisions of this Act, shall, on conviction before a Magistrate, be liable to be imprisoned for any period not exceeding six months.

Proclamation to be made of the time of sale and of the property to be sold.

Ibid, s. 17.

CCIX. The public Officer empowered to sell distrained property shall cause to be affixed to the outer-door of the defaulter's house a list of the property to be sold, with a notice specifying the place where, and the day and hour at which the distrained property will be sold, and shall cause proclamation of the intended sale to be made by beat of drum in the village to which the lands on which the arrear has accrued may belong, and in such place or places as the Collector may consider necessary to give due publicity to the sale. No sale shall take place until after the expiration of a period of fourteen days from the date on which the notice may be so affixed.

Sale how to be conducted.

Ibid, s. 18.

CCX. At the appointed time, the property shall be put up in one or more lots as the distrainer may consider advisable, and shall be disposed of

to the highest bidder. Where the property may sell for more than the amount of the arrear, the overplus, after deducting expenses of process and interest, shall be paid to the defaulter.

Payment, to the purchaser of distrained property, how to be made.

Act XXX of 1858, *s.* 19.

CCXI. The property shall be paid for in ready money at the time of sale, or as soon after as the Officer holding the sale shall appoint, and the purchaser shall not be permitted to carry away any part of the property until he has paid for the same. Where the purchaser may fail in the payment of the purchase money, the property shall be re-sold, and the defaulting purchaser shall make good to the distrainer any loss arising, as well as the expenses incurred on the re-sale, and any advance of price on the second sale shall be carried to the credit of the party on whose account the original sale was made.

Defaulter not to purchase goods sold.

Reg. XXVII of 1802, *s.* 27.

CCXII. It shall not be lawful for defaulters, or persons acting as agents, or Trustees on their behalf, to bid for, or purchase their property sold under distress, and every purchase by such persons shall be null and void, and the property shall be set up for sale again, and all money paid in respect thereof shall be forfeited.

On tender of arrear and expenses prior to the day of sale, distress to be withdrawn.

Act XXXIX, of 1858, *s.* 5.

CCXIII. Where a defaulter or any person whose goods are liable to be distrained for arrears of revenue, may tender payment of the arrear demanded after his property may have been distrained, and not less than two days prior to the day fixed for sale, together with payment of the interest and other charges connected with the distress, the distrainer shall receive the amount of such arrear and expenses immediately upon the same being tendered, and shall forthwith release the property; and all monies so paid on account of the defaulter by any person liable to distress shall constitute a debt from the defaulter to him, and may be deducted from any sums in which he may then, or afterwards, stand indebted to the defaulter.

Penalty for fraudulent conveyance of property to prevent distress.

Ibid. s. 11.

CCXIV. Where a defaulter may make a fraudulent conveyance of property, to prevent the distress for arrears, the Zillah Court, upon proof thereof, shall summarily cause the property to be delivered up to the distrainer, and may impose on the parties to the fraud such fine, not exceeding one-half of the value of the property, as it may think proper.

Penalty for forcibly or clandestinely taking away distrained property.

Ibid., s. 13.

CCXV. Where it may be proved to the satisfaction of the Zillah Court that any person has forcibly or clandestinely taken away property once distrained, the Court may cause such person to be imprisoned for a period not exceed-

ing six months, or until he shall restore the property or make good the value of it to the distrainer, and may also impose on him a fine not exceeding the value of such property.

Claims to property distrained and sold.

Ibid., s. 12.

CCXVI. Where a person, not being a defaulter or responsible for a defaulter, or the person in actual possession of Ryotwary land, in respect of which there is an arrear of revenue, may claim a right to the property distrained, and the distrainer may, notwithstanding, cause the same to be sold, the claimants, on proof of such right in the Zillah Court, and in the event of the distrainer being unable to prove the responsibility of the owner of such property for the arrear of revenue or rent on account of which the same may have been sold, shall recover from the distrainer the full value of such property, with costs and damages, according to the circumstances of the case. But claims to crops upon the ground, or to gathered products of the ground attached, in the possession of the defaulter, whether founded upon a previous sale, mortgage, or otherwise, shall not bar the prior claim of revenue or rent due from the ground upon whichsuch crop or product may have been grown.

Powers of arrest.

Ibid., s. 24.

CCXVII. When arrears of revenue, with interest and other charges as aforesaid, cannot be liquidated by the sale of the property of the defaulter, and the Collector shall have reason to believe that the defaulter is wilfully withholding payment of the arrears, or has been guilty of any fraudulent conduct in order to evade payment, it shall be lawful for him to cause the arrest of the defaulter, as hereinafter mentioned; but no person shall be imprisoned on account of an arrear of revenue for a longer period than two years, or for a longer period than six months if the arrear does not exceed Rupees 500, or for a longer period than three months if the arrear does not exceed Rupees 50.

Procedure in case of arrest.

Reg. XXVII of 1802, s. 13, cl. 1.

CCXVIII. The Collector, or other Officer empowered in that behalf, shall issue his warrant for the arrest of the defaulter, which shall specify his name, the amount of revenue due, and the date on which it became payable, and the warrant shall be signed and sealed by the authority by whom it was issued. The Officer charged with the execution of the warrant shall thereupon arrest the defaulter and convey him to the District gaol, and deliver the warrant to the gaoler, which shall be a sufficient authority tohim to r eceive the prisoner. A copy of such warrant shall be retained by the gaoler, who shall forthwith despatch the original to the judicial officer in charge of the gaol.

Revenue may be let out on Farm.
Bombay XVII of 1827, *s.* 20.

CCXIX. It shall be lawful for the Collector with the sanction of the Board of Revenue, to farm the public revenue, or any portion thereof, to individuals, on specific agreements, to be passed in writing.

Notice to be given.
Ibid., s. 21.

CCXX. When land revenue is farmed, the Collector shall cause notice thereof to be given to the head of each village included in the farm, and a proclamation to the same effect to be fixed up at such public places as he shall direct.

Farmer not to raise assessment without permission.
Ibid., s. 22.

CCXXI. The Farmer shall not have authority to increase in any respect the assessment paid in the preceding year; but, when he may consider himself entitled to a large amount than that assessment would award from any individual, he shall make a written application to the Collector, stating briefly the amount and grounds of his claim. The Collector shall forward a copy of the application to the individual affected thereby, with a notice, stating the time and place at which the matter will be heard, and such copy and notice shall be served in manner prescribed by Section CLXXVII of this Chapter, not less than fourteen days before the day of hearing, and the Collector's decision shall be final, unless an appeal be preferred to the Board of Revenue within three months.

Payment how enforced against Farmer.
Ibid., s. 28.

CCXXII. The Farmer shall be responsible to the Collector for the amount which he has agreed to pay for the farm, and if he should fail to discharge any instalment on the day on which it becomes due he shall be deemed a defaulter, and it shall be competent to the Collector to proceed against him as prescribed by this Act, in case of arrears of revenue; the fact of the farmer being in default shall be announced by proclamation, and by affixing notices thereof in the most public places of the land held under farm; and no payments of revenue made to him in anticipation, or after public notice as aforesaid, shall be valid against the Collector; provided always, that the party making such payments may recover them from the farmer.

Mode of enforcing payment by sureties.
Reg. XXVII of 1802, *s.* 20.
„ *I of* 1826, *s.* 2.

CCXXIII. All the remedies prescribed by this Act in case of revenue defaulters, may be employed against their sureties, and it shall be lawful for the Collector to enforce the same simultaneously with, or previously to their enforcement against the principal; so nevertheless, that no more than the total sum in arrears with costs and charges, shall be realized from both.

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Similar process in case of other species of Revenue.
Act XXXIX of 1858, *s.* 28.

CCXXIV. Arrears due to Government, other than land revenue, advances made by Government for cultivation, or other purposes connected with the revenue, and fees due to Government Village officers may be recovered in the same manner as arrears of land revenue under the provisions of this Act.

CCXXV. Where such fees shall be payable in kind, it shall be lawful for the Collector, with the sanction of the Board of Revenue, to commute the sum into a money payment, which shall be calculated according to the commutation rate existing in the District, or according to such rate as the local Government shall from time to time direct.

Reg. I of 1826, *s.*2.

CCXXVI. Every person making a payment of revenue shall be entitled to a receipt for the same, signed by the Collector, or other Officer authorized in that behalf ; such receipt shall state the name of the person making the payment, and the subject matter in respect of which it is paid, and in case of land revenue, shall describe the land on which the assessment is due, by reference to the number of the puttah, and the name of the person entered in respect thereof in the Settlement account.

Collectors to realize each others demand.
Bombay, XVII of 1827, *s.* 14.

CCXXVII. Collector shall, on written application, realize each others demand for arrears of revenue in the same manner as if they were their own, whether the Districts be in the same or in different Presidencies. Every such application shall be signed and sealed by the Collector making the same, and shall be conclusive as to the amount due, and the party in arrear, in all proceedings against the Collector enforcing the same, or any person acting under his authority ; and no proof of the seal, or signature or official character of the Collector making the application shall be required, unless the Court shall see reason to doubt its genuineness ; provided always, that nothing herein contained shall affect the right of any parties to sue the Collector who made the application in his own District.

Summary applications to Civil Judge.
Reg. XXVII of 1802, *s. s.* 11, 12.

CCXXVIII. No Court of Civil judicature shall have authority to take into consideration, or decide any question as to the rate of Government assessment, or as to the Government demand upon land.

Recovery of Fines.
Act XXXIX of 1858, *s.* 30.

CCXXIX. All fines imposed by this Act shall be recovered in the same way as arrears of revenue.

Subordinate Collectors, &c, to have the same powers as Collectors.

CCXXX. Every Subordinate, Assistant, or Deputy Collector in charge of a particular divi-

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Regulation VII of 1828, *s. 3., cl.* 1.

son of a District, shall, *ex-officio*, have authority to exercise within the division under his charge all the powers herein granted to Collectors.

Authority of Collectors to delegate their power.

Ibid., cl. 2.

CCXXXI. It shall be lawful for Collectors to delegate at their discretion, in writing under their official signature, any of the powers hereby existing in them, to any of their Subordinate, Collector or Assistants, or Deputy Collector, not in charge of a particular division of a District; or to any such Officers in charge of a particular division, beyond the limit of such division.

Appeal and Review.

Ibid., cl. 3.

CCXXXII. All proceedings of such inferior authorities shall be open to the Collector on appeal, or by way of review; and it shall be lawful for him to direct, either generally or in any particular instance, that such proceedings shall be submitted to him before they are carried into execution.

Scope of the Act.

CCXXXIII. Nothing in this Code shall apply to the Collection of the land revenue within the limits of the Town of Madras, as defined by Section XII, Regulation II of 1802, of the Madras Code.

CHAPTER V.

Consolidating certain Regulations which govern the rights of Lanholders and their Tenants, and for defining the process to be used in the recovery of Rents.

Preamble.

CCXXXIV. Whereas it is expedient to consolidate and simplify various laws which have been passed in relation to landholders and their tenants, and others, and to provide a uniform process for the recovery of rent and revenue, it is enacted as follows:—

Interpretation Clause.

CCXXXV. The term "Landholder" when used in this Act, shall be taken to include all persons entitled to the receipt of rent or revenue issuing from land, and payable direct to them.

CCXXXVI. The term "Tenant" shall for the purpose of this Act only, include all persons who are bound to pay rent to a landholder.

Mode of enforcing arrears.

CCXXXVII. All landholders, managers of the Estates of disqualified landholders, and public officers holding land in attachment for arrears of Government revenue, shall have authority to proceed against tenants for arrears of rent or revenue in the manner hereinafter provided.

Power of distress.

Regulation XXX of 1802, *Section* 2.

CCXXXVIII. Where the rent shall remain unpaid on the 20th day of the month, in respect of which the instalment is due, it shall be

considered to be in default, and it shall thereupon be lawful for the landholder, or other person abovementioned who is entitled to payment, to distrain upon his own responsibility the crops and moveable property of the defaulter, or, in case of lands held under Ryotwary tenure, of the person in actual possession of the lands in respect of which rent or revenue may be due, wherever such property may be found.

Notice of seizure and sale.
Regulation V of 1822, *s.* 3.

CCXXXIX. As soon as any property is seized, a written notice shall be sent to the Collector, in which shall be stated the name of the defaulter, the amount in arrear, and the date of the seizure; the date on which such notice reaches the Collector's Cutcherry shall be endorsed upon it by the Officer by whom it is received. If no appeal is preferred against such seizure, or if an appeal is preferred and decided against the defaulter, the property so seized may be sold in one month from the day in which the notice of seizure was received by the Collector.

Distrainer may procure assistance of Police.
Regulation XX of 1802, *s.* 20.

CCXL. Persons authorized to distrain for arrears of rent may apply to the nearest Police station for such assistance as may be necessary to prevent any breach of the peace, and the authority to whom such application is made, shall depute one or more Police Officers to be present at the time of such distress, and it shall be their duty to prevent resistance or breach of the peace, and also to give due attention to the whole conduct and proceedings of the distrainer, so as to be able to give evidence thereupon if required.

Proceedings in case of distress and sale.

CCXLI. Except so far as is otherwise provided in the previous sections, such distress and sale shall be subject in every respect to the same rules and restrictions, and shall be carried out with the same formalities, notices, and limits as are prescribed by Chapter IV of this Code, in the case of distress for arrears of revenue.

Power of attachment.
Regulation XXIX of 1802, *s.* 34, *cl.* 6.

CCXLII. Where rent shall be in default, it shall be lawful for the persons entitled to payment as described in Section CCXXXV of this Chapter, to attach the land of such defaulter, and to manage the same by their own agents until the rent or revenue due, and that which may become due after attachment, with interest upon the whole arrears at the rate of one per cent. per month, may have been liquidated; but in such cases, the person attaching the land shall not exact more from the inferior holders, whose rents for the current year may have been payable to the defaulters, than the defaulters would have been entitled

to receive from them if the attachment had not taken place; and in the event of the defaulters making good the arrears due from them, with interest and costs of attachment, the attachment shall be withdrawn, and an account rendered to them of the receipts and disbursements during the continuance of such attachment.

Power of sale of land.
Regulation XXVIII of 1802, *s.* 34, *cl.* 7.

CCXLIII. Where arrears of rent may not be liquidated within the current revenue year, and where the defaulters may be the holders of tenures in which they have a saleable interest by express contract or by the usage of the country, it shall be lawful for any of the persons entitled to payment as described in Section CCXXXV of this Chapter to sell such interest, in satisfaction of the arrears and of interest thereon at the rate of one per cent. per month, and of costs of attachment, where any such has taken place.

Notice to be giveu of intention to sell.

CCXLIV. Where the person to whom an arrear is due intends to avail himself of the powers given by the preceding Section, he shall give the defaulter a written notice of his intention to sell, and such notice shall state the amount due for arrears, interest, and costs, if any, and shall inform him that if the amount is not liquidated within one month from the date of service upon him, his interest in the land shall be sold. The noticeshall be served by delivering a copy to the defaulter, or to some adult inmate of his family at his usual place of abode, or to his authorized agent, in the event of his absence, or by affixing a copy thereof on some conspicuous part of his last known residence, where service cannot be effected in any other way. A duplicate of the notice shall also be sent to the Collector, with an endorsement stating the date of service, and the mode in which it was effected.

Mode of sale.
Regulation XXVIII of 1802, *s.* 34, *cl.* 7.

CCXLV. Where no appeal has been made against such notice within one month from the date of service upon the defaulter, or as above specified, or where an appeal has been decided against the defaulter, the party entitled to the arrears shall proceed to sell upon his own responsibility, and without requiring further authority from the Collector, or any other person.

Ejectment for non-payment of rent.
Regulation XXVIII of 1802, *s.* 34, *cl.* 7.

CCXLVI. Where the defaulter shall be in arrear at the end of the current revenue year, and where there is no sufficient distress upon the premises to satisfy the same, and where the tenant has no saleable interest in the land, it shall be lawful for any person entitled to pay-

ment as specified in Section CCXXXV of this Chapter or for his authorized agent, to apply to the Collector for a warrant, authorizing him to enter upon, and take possession of the premises. Such warrant shall be granted upon the production of a written statement of the person applying for the warrant, which shall contain the name of the defaulter, the description and extent of the premises, the amount due for arrears, interest, and costs of attachment if any, and the date at which it fell due, and also a declaration that there is no sufficient distress upon the premises, and that the tenant has no saleable interest therein. Such statement shall be filed in the Office from which the warrant issues.

Warrant.

CCXLVII. The warrant shall state the defaulter's name, the whole amount due, and the description and extent of the premises, and shall set forth that unless payment is made within fifteen days, the defaulter will be turned out of possession.

Execution of the warrant.

CCXLVIII. The warrant shall be entrusted to some Officer of Police, who shall serve it in the manner laid down in Section CCXLII of this Chapter. Where no appeal shall be preferred within fifteen days after service, or where an appeal has been preferred and decided against the defaulter, and where the amount named in the warrnt is not discharged, the Police Officer shall place the person who has procured the warrant in possession.

Effect of delivery of possession.

CCXLIX. Upon delivery of possession the tenancy existing between the defaulter and his superior holder shall cease and determine, unless an action is brought in the proper Court of Civil judicature within one month to reverse such delivery of possession, and is prosecuted to a successful termination.

Power of arrest.
Regulation XXVIII of 1802, *s.* 34.

CCL. Where the arrears cannot be liquidated by distress and sale of the moveable property of the defaulter, or by sale of his interest in the land, it shall be lawful for the person entitled to payment as specified in Section CCXXXV of this Chapter or his authorized agent to apply to the Collector for a warrant for the personal arrest of the defaulter, which shall be granted upon such written statement as is prescribed by Section CCXLIV of this Chapter.

Warrant.

CCLI. The warrant shall state the defaulter's name, the description of the premises, and the total amount due, and shall further set forth that unless the amount is paid in twenty-four hours, the defaulter will be lodged in gaol.

The warrant shall be produced, and a copy thereof given to the defaulter when he is arrested, and if the amount is not satisfied within twenty-four hours, the Officer executing the warrant shall cause him to be conveyed before the authority who issued the same. Where the defaulter admits the amount due and his liability to pay the same, he shall be forthwith lodged in gaol, and the warrant shall be delivered to the gaoler, and shall be a sufficient authority to him to receive the prisoner. A copy of the warrant shall be retained by the gaoler, who shall forthwith despatch the original to the Judicial Officer in charge of the gaol.

Procedure where arrears are disputed.

CCLII. Where the supposed defaulter, on being brought before the functionary who issued the warrant shall deny the existence or amount of arrears, or his liability to discharge the same, such functionary shall proceed at once to investigate the matter, and shall suspend execution of the warrant pending judgment, upon security being given for the amount claimed, and for the costs occasioned by the denial; provided always, that where he may see reason to think that the statement upon which the warrant was obtained was untrue, he may suspend execution without requiring security.

Period of imprisonment and subsistence.
Act XXXIX 1858, *s.* 24.
Regulation XXVIII of 1802, *s.* 34, *cl.* 4.

CCLIII. No person shall be imprisoned as a defaulter for a longer period than two years, whatever the amount of arrears may be; nor for a longer period than six months, if the arrears do not exceed Rupees 500; nor for a longer period than three months if the arrears do not exceed Rupees 50. The person procuring the arrest shall pay to the defaulter whilst in confinement subsistence money at the established rates, and upon default of such payment the prisoner shall be entitled to his release.

Appeal.

CCLIV. Where any of the provisions of this Chapter have been, or are about to be enforced against any person who considers himself aggrieved thereby, it shall be lawful for him to prefer a summary appeal to the Revenue authorities in the manner prescribed by Section LXX of Chapter II of this Code.

Remedy for procuring a warrant without probable cause.

CCLV. Every person who shall without probable cause procure such warrants as are before mentioned by making any wilfully false statement to the Officer issuing the same, shall be liable upon conviction before a Magistrate to a fine not exceeding Rupees   and to imprisonment not exceeding   months.

All ordinary rights of action saved
Regulation XXVIII of 1802, *s.* 39.

CCLVI. Nothing in this Chapter contained shall be construed to debar any person from

proceeding in the ordinary tribunals to recover money paid, or to obtain damages in respect of anything professedly done under the authority of this Chapter; provided always, that no action shall lie against any revenue authority for issuing such warrants as are abovementioned, where the necessary statement has previously been made even though such statement should prove to be false; nor in any case against a Police Officer who executes any warrant, or assists in any process permitted by this Chapter, when directed to do so by an authority whom he is bound to obey.

Landholders may delegate their power of summary proceedings.
Regulation XXVIII of 1802, *s.* 42.

CCLVII. Landholders and others acting under Sections CCXXXVII to CCLIII shall be authorized to delegate to their agents all the powers given thereby, and any persons aggrieved by such acts shall be allowed to sue either the landholder, or his agent, or both; provided always, that the landholder shall in no case be liable to imprisonment, nor to any greater damages than the plaintiff has actually suffered, where the act complained of was committed by his agent, and was not sanctioned by him.

Heirs may proceed for arrears.
Regulation XXVIII of 1802, *s.* 30.

CCLVIII. The heirs or legal representatives of persons who are authorized by this Chapter to proceed summarily for arrears of rent or revenue shall have the same authority to institute or continue such proceedings, as was possessed by those whom they represent, whether the arrears in question accrued while they were legally entitled to the land or previously; and notice shall be given to the Collector, or other Officer empowered in that behalf, of the first step taken by them under this Section.

Refusal to grant receipts.
Regulation XXX of 1802, *s.* 14.

CCLIX. Tenants shall be entitled to receipts from landholders for all discharges made in money or in kind; and where they may have paid the whole rent or revenue, they shall be entitled to receipts in full. Persons to whom receipts are refused may, on establishing the same before the ordinary tribunals or the Collector, recover such damages as may seem fit, not exceeding twice the sum paid with costs.

Written agreements to be exchanged.
Ibid., s. 2.

CCLX. Landholders shall enter into written agreements with their tenants; the engagements of the landholders being termed "Puttah" and those of the tenant being termed "Muchilka."

Ibid., s. 4.

Contents of Puttah and Muchilka.

CCLXI. The Puttah shall contain the names of the contracting parties; the local description and extent of the land; the amount and nature of the rent, according as the same may be payable in money, or in kind, or by a share of the produce; the period at which payments are to be made; the date of the contract; and all other special terms by which it is intended that

the parties shall be bound. The Muchilka shall at the option of the landholders be a counterpart of the Puttah, or a simple engagement to hold according to the terms of the latter. All amounts exacted from the tenant beyond what are specified in the Puttah shall be considered to have been extorted, and the parties exacting the same shall repay double the amount with costs.

Puttahs and Muchilkas to be signed and registered.
Regulation XXX of 1802, *s.* 5.

CCLXII. Puttahs and Muchilkas shall be regularly signed and registered by the Curnum of the village in which the lands engaged for are situated.

No suit to be brought unless Puttahs and Muchilkas have been exchanged.
Regulation V of 1802, *s.* 9.

CCLXIII. No suit shall be brought, and no legal proceedings shall be taken to enforce the terms of any tenancy, unless Puttahs and Muchilkas have been exchanged as aforesaid, or unless it is proved that the party attempting to enforce the contract had tendered such a Puttah or Muchilka as the other party was bound to accept, or unless both parties shall have agreed in writing to dispense with Puttahs and Muchilkas.

Refusal to grant Puttahs.
Regulation XXX of 1802, *s.* 8.

CCLXIV. Where any landholder shall for three months after demand, have refused to grant such a Puttah as his tenant was entitled to receive, it shall be lawful for the latter to proceed by suit in the ordinary tribunals, or by summary application to the Collector, and the authority trying the case shall direct a proper Puttah to be granted and award to the tenant such costs and damages as may be shown to have been incurred.

Refusal to receive Puttahs.
Regulation V of 1822, *s.* 8.

CCLXV. Where any tenant shall for one month after demand have refused to accept such a Puttah as the landholder is entitled to impose, and to grant his Muchilka in exchange, it shall be lawful for such landholder to proceed before the ordinary tribunals or by summary application to the Collector to enforce acceptance of the Puttah, or to obtain damages for the loss or expense caused by the refusal or both.

Ibid.
Regulation XXX of 1802, *s.* 10.
Ejectment of Tenant.

CCLXVI. Where a landholder may desire to grant the land to any other person in consequence of the tenant's refusal to accept a Puttah, it shall be lawful for him to proceed by summary application to the Collector, who shall upon satisfying himself that the Puttah was a proper one and that it was refused, issue his order ejecting the tenant unless he accedes to its terms, and condemning him to pay the costs of the application. Where the Collector shall be of

opinion that the Puttah was an improper one, he shall decide what Puttah ought to be offered, and shall tender the same to the tenant, and should it be refused, he shall proceed to eject the tenant leaving both parties to pay their own costs; provided always, that no such proceedings shall be necessary where the tenant shall signify his desire to renounce the land by a writing signed by himself in the presence of two witnesses.

Regulation XXX of 1802, s. 7.

Unauthorised exactirns forbidden.

CCLXVII. Landholders answering to the following description, that is to say, persons farming the land revenue under Government, persons holding under a Sunnud Milkeut-i-Istimrar, and all such Zemindars, Shrotriemdars, Jaghiredars, and Inamdars, as occupy the place of Government in reference to the land, and are only entitled to the tax payable therefrom or to a portion of it, shall not levy any unauthorized assessment or tax on their Ryots under any name or under any pretence. Where disputes may arise respecting rates of assessment whether in money or in kind, such rates shall be determined according to those permanently assessed upon the lands in dispute, or where such rates may not be ascertainable or where such lands have not been permanently assessed, then according to the rates established for contiguous lands of the same description and quality as those respecting which the dispute may arise; provided always that nothing herein contained shall affect the right of such landholder with the sanction of the Collector, to raise the assessment upon any lands in consequence of additional value imparted to them by works of irrigation or other improvements provided or procured at his own expense; provided also that no Puttahs, which may have been granted by any such landholder at rates lower than the rates assessed upon such lands, or upon contiguous lands of the same description and quality, shall be binding upon his successor, unless such Puttahs shall have been *bonâ-fide* granted for the erecting of dwelling-houses, factories, or other permanent buildings, or for the purpose of clearing and bringing waste land into cultivation, or for the purpose of making any permanent improvement thereon, and unless the tenant has substantially performed the conditions upon which such lower rates of assessment were allowed.

Regulation XXX of 1802, s. 15.

Duration of Puttahs.

Ibid., s. 12.

CCLXVIII. Puttahs executed for one year by the landholder mentioned in the preceding section, with such of their tenants as hold land in their own right hereditarily or by the custom of the country, shall be renewable at the expira-

tion of the Fasli, but shall be considered in force till renewed.

Act not to denfine or infringe the rights of landholders or tenants
Regulation IV of 1822.

CCLXIX. Nothing contained in this Act is meant to define, limit, infringe or destroy the actual rights of any description of landholders or tenants, but merely to point out in what manner tenants may be proceeded against in the event of their not paying the rents justly due from them.

SCHEDULE A.

SUNNUD-I-MILKEUT ISTIMRAR, OR DEED OF PERMANENT SETTLEMENT GRANTED BY THE GOVERNOR IN COUNCIL OF FORT SAINT GEORGE, TO THE ZEMINDAR OF

Vide C. O. 10th Aug. 1826, Page 68, Para. 5. See also page 566, Clause 3rd of Rule xiii.

It is known to the Zemindars, Talookdars, Meerassidars, Ryots, and all Cultivators of land in the Territories subject to the Government of Fort St. George, that from the earliest until the present period of time, the public assessment of the land revenue has never been fixed; but that according to the established practice of Asiatic Governments, the assessment of the land revenue has fluctuated without any fixed principles for the determination of the amount; and without any security to the Zemindars, or other persons, for the continuance of a moderate land tax. On the contrary, frequent inquiries have been instituted by the Ruling Power, whether Hindoo or Mahomedan, for the purpose of augmenting the assessment of the land revenue; and it has been customary to regulate such augmentations by the inquiries and opinions of the local Officers appointed by the Ruling Power for the time being. In the attainment of an increased revenue on such foundations, it has been usual for the Government to deprive the Zemindars, and to appoint persons on its own account to the management of the Zemindars; thereby reserving to the Ruling Power the implied right, and the actual exercise, of the proprietary possession of all lands whatever. It is obvious that such a mode of administration must be injurious to the permanent prosperity of the country, by obstructing the progress of agriculture, population, and wealth; and destructive to the comfort of individual persons, by diminishing the security of personal freedom, and of private property.

2nd.—The British Government, impressed with a deep sense of the injuries arising to the State and to its subjects, from the operation of such principles, has resolved to remove from its administration so fruitful a source of uncertainty and disquietude; to grant to Zemindars, and other landholders, their heirs, and successors, a permanent property in their land in all time to come; to fix for ever a moderate assessment of public revenue on such lands, which shall never be liable to change under any circumstances; to institute Courts of Judicature for the protection of these valuable rights; and to secure to every description of its Native Subjects, under the operation of fixed and defined laws, the free exercise of the religious institutions, and domestic usages, of their ancestors.

3rd.—In confirmity to these principles the assessment of your Zemindary has been fixed from the commencement of Fusly 1212, at the annual sum of Star Pagodas
which said sum of Star Pagodas
shall be fixed, and is hereby accordingly declared by this Sunnud to be the permanent annual Jumma of your Zemindary, payable in the current coin of the Province, in fixed monthly instalments, agreeably to the separate Kistbundy signed by you.

4th.—This permanent assessment of the land tax on your Zemindary is exclusive of the revenue derived from the manufacture and sale of Salt, and Saltpetre; exclusive of the Sayer, or duties of every description, whether by Sea or Land, the entire administration of which the Government reserves to itself; exclusive of the Abkarry or tax on the sale of spirituous liquors, and intoxicating drugs; exclusive of the excise which is or may be levied on commodities or articles of consumption; exclusive of all taxes, personal and professional, as well as of those from markets, Fairs, and Bazars; exclusive of Lakheraj lands, (lands exempt from the payment of public revenue,) and of all other alienated lands paying a small Quit Rent, (which Quit Rent unchangeable by you, is included in the assests of your Zemindary); and exclusive of all lands and Roosooms heretofore appropriated to the support of Police Establishments. The Government reserves to itself the entire exercise of its discretion in continuing or abolishing, temporarily

or permanently, the articles of revenue included, according to the custom and practice of the country, under the several heads above stated.

5*th.*—You shall regularly pay in all seasons the amount of the permanent assessment above fixed: the remissions which have occasionally been granted according to the custom of the country on account of draught, inundation, or other calamity of the season, shall now cease, and never be revived; and if, (which God forbid,) you should fail to discharge your engagements, your Zemindary and your personal property shall be answerable for the consequence of such failure.

6*th.*—In this event your personal property will be liable to attachment in the first instance; and your lands will ultimately be liable to be sold and transferred from you for ever, for the payment of the public reveuue: but under the moderate terms of the assessment on your Zemindary, this event can never happen except in consequence of your own default; for the Court of Judicature will protect you against such an injury, unless warranted by your failure.

7*th.*—You shall be at free liberty to transfer, without the previous consent of Government, or of any other authority, to whomsoever you may think proper, either by sale, gift, or otherwise, your proprietary right in the whole, or in any part, of your Zemindary; such transfers of your land shall be valid, and recognised by the Courts and Officers of Government, provided they shall not be repugnant to the Mahomedan the Hindoo laws, or to the Regulations of the British Government; but unless such sale, gift, or transfer, shall have been regularly registered at the Office of the Collector; and unless the public assessment shall have been previously determined, and fixed on such separated portions of your Estate by the Collector; such sale, gift, or transfer shall be of no legal force or effect; nor shall such transaction exonerate you from the payment of any part of the public land tax assessed on your entire Zemindary previously to such transfer; but your whole Zemindary shall continue to be answerable for the total land tax, in the same manner as if no such transaction had occurred.

8*th.*—In the event of the sale of any part of your Zemindary for the liquidation of arrears of the assessment; or in satisfaction of the decree of a Court of Judicature; or in the event of the transfer of any part of your Zemindary by gift, sale, or otherwise; you shall furnish the Collector with true and correct accounts of your entire Zemindary, and of the portion of your Zemindary to be so separated, for a period not less than the three years preceding such sale or transfer, in order that the due proportion of the public revenue may be fixed thereon. The assessment to be settled on the separated parts of your lands, shall always bear the same proportion to the actual produce of the separated portion, as the total permanent Jumma on your Zemindary bears to the actual produce of the whole Zemindary: so that, if the accounts to be furnished by you should be correct, no partial assessment can happen; nor any increase of the fixed Jumma be ever made, under whatever changes or improvements your interests or your pleasure may lead you to introduce into the Zemindary.

9*th.*—Although you shall have free right and liberty to transfer by sale, gift, or otherwise, any part of your Zemindary, not repugnant to the Regulations of Government; yet it shall not be competent for you, nor for any Zemindar, to form any part of your lands into a separate Estate paying its Jumma directly to Government, unless the public assessment on such separate Estate shall amount to the annual sum of five hundred Star Pagodas (500), and upwards.

N. B.—This clause is modified by Sec. 58 of Reg. II of the Code.

10*th.*—In order that you may at all times be enabled to comply with the conditions of the 8th Article of this Sunnud, by which you are bound to furnish true and correct accounts of your Zemindary when required by the Collector, you shall support the regular and established number of Curnums in the several villages of your Zemindary. The Curnums shall be appointed from time to time by you, and shall obey all regular orders issued by your authority, but they shall not be liable to be removed from their offices, except by the sentence of a Court of Judicature. In the event of your having, or of your under-farmers, tenants, or ryots, having cause of complaint against the Curnum of any village, for a breach of duty, you shall be at liberty to institute, at your own peril, a suit in the Udalut of the Zillah, for the purpose of

bringing such Curnum to trial and punishment; but in the event of your dispossessing a Curnum of his office without such previous regular process, you shall be liable to make such satisfaction for the injury, as the Udalut of the Zillah may decree. Where a Curnum may be dismissed from his office by the sentence of a Court of Judicature, you shall, in the first instance, select a successor from the family of the last incumbent, provided any member of that family shall be capable of the duty of Curnum, but if no member of it shall be capable of discharging that duty, you shall exercise your discretion in the appointment of a proper person. The name of the person appointed to succeed shall be reported to the Collector.

11*th.*—The Government having charged itself with the maintenance of the Police of the country, will defray the entire expense of that Establishment; you shall nevertheless aid and assist its Officers in apprehending and securing offenders of all description; and you shall inquire and give notice to the Magistrates of all robbers or disturbers of the public peace, who may be found, or who may seek refuge, in your Zemindary.

12*th.*—You shall enter into engagements with your ryots either for a rent in money or in kind; and shall, within a reasonable time, grant to each ryot, a Puttah or Cowle, clearly defining the amount to be paid by him, and explaining every condition of the engagement: and you shall grant, or cause to be granted, regular receipts to the ryots for all discharges in money, or in kind, made by them to you, or for your account. If after the expiration of a reasonable period of time from the execution of your Cabooleut, *(a)* you shall neglect, or shall refuse to comply with the demand of your under-farmers, or ryots, for the Puttahs and receipts abovementioned, you shall be liable to be sued in the Udalut of the Zillah; and you shall also be liable to such damages as may be decreed by the Udalut to the Complainant.

13*th.*—The foregoing conditions contain an abstract of the obligations and duties which you shall incur, and of the rights which you have acquired under the new constitution erected for the security, protection, and prosperity of the subjects of the British Government: but for the enlargement of that Constitution, and for the improvement of the condition of the people, the Governor in Council will continue from time to time to enact such Regulations, as experience may suggest, or the progress of human affairs render necessary. Such Regulations will be administered by independent Judges, in constituted Courts of Judicature, governing their decisions by the laws only. The decrees of those Courts will be founded on the Regulations of Government, printed, published, and translated, for the information and security of its subjects; and on the Institutes of the Hindoo or Mahomedan laws, which are also open to the inquiry of all persons; the proceedings of the Udalut will be held in open Courts accessible to persons of every description; all parties will be at liberty to attend to their own interest by their presence in the Courts during such proceedings; or to employ their Vakeels with such instructions regarding the mode of prosecution or defence, as may appear to be most eligible to themselves; the sentences of the Courts will be pronounced in the same public manner; and executed by Civil authority, without the interposition of Military Force; the Collectors, and other public Servants of the Government, will be compelled to appeal to the Courts of Judicature for the adjudication of all cases, in which by virtue of their offices they may be parties; and finally, the greatest practicable degree of security has been extended to the Native subjects of British Government by the establishment of a gradation of Appeals from the Zillah Court to the Provincial Court;* and from the Provincial Court to the Court of Sudder Udalut at the Presidency; and in the last resort, from the Court of Sudder Udalut to the Governor-General in Council of Bengal.†

* *Vide Act* VII *of* 1843.
† *Vide Reg.* VIII *of* 1818.

14*th.*—Being therefore sensible of the benefits conferred on you by these institutions, and confident of enjoying the fruits of your industry, you shall be punctual in your engagements with Government, you shall conduct yourself with good faith towards your ryots, whose prosperity is inseparably connected with your own; you shall treat them with tenderness, encourage them to improve and extend the cultivation of the land, and lay the foundations of your own happiness in the permanent prosperity of your Zemindary.

15*th.*—Continuing to perform the above stipulations, and to perform the duties of allegiance to the British Government, its Laws, and Regulations, you are hereby authorized and empowered

to hold in perpetuity to your heirs, successors, and assigns, at the permanent assessment herein named, the Zemindary of

Given in Fort St. George this day of by and in the name of the Right Honorable the Governor in Council.

(Signed by the Members of the Government.)

Entered in the Secretary's Office.

By order of the Right Honorable the Governor in Council.

(Signed by the Secretary to the Government.)

(a) The Cabooleuts taken from the Zemindars, were exact Counterparts of their Sunnuds.

MADRAS RECORD OFFICE
12 DEC 1935